

Please note: These transcripts are not individually reviewed and approved for accuracy.

MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND COMPLIANCE COMMITTEE

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

COASTAL HEARING ROOM

SACRAMENTO, CALIFORNIA

MONDAY, JANUARY 14, 2008

1:37 P.M.

KATHRYN S. SWANK, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 13061

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chairperson

Mr. Jeffrey Danzinger

Ms. Cheryl Peace

BOARD MEMBERS

Ms. Margo Brown, Chairperson

Mr. Wesley Chesbro

Mr. Gary Petersen

STAFF

Mr. Elliot Block, Chief Counsel

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Michael Bledsoe, Staff Counsel

Mr. Mark de Bie, Chief, Permitting and LEA Support
Division

Ms. Mihoyo Fuji

Mr. Virginia Humphreys

Ms. Christine Karl

Mr. Howard Levenson, Program Director, Sustainability
Program

Ms. Joy Luther

Mr. William Marciniak

APPEARANCES CONTINUED

Ms. Cara Morgan, Division Chief, Local Assistance & Market
Development Division

Ms. Dianne Ohiosumua

Mr. Michael Payan

Mr. Ted Rauh, Program Director, Waste Mitigation &
Compliance Program

ALSO PRESENT

Mr. Mark Aprea, Republic Services

Mr. Kelly Astor, CA Resource Recycling Council

Mr. Nathan Gorth, Modesto Co-Compost

Mr. Chuck Helget, Allied Waste

Ms. Laurie Holk, Riverside County LEA

Mr. Steve Johnson, Salinas Valley Solid Waste Authority

Mr. Jim Rigge, City of Fortuna

Mr. Chuck White, Waste Management

Mr. Jim Wise, Pacific Waste Services

INDEX

	PAGE
Roll Call And Declaration of Quorum	1
A. Program Directors' Reports	1
B. Consideration Of A Revised Full Solid Waste Facilities Permit For The Johnson Canyon Sanitary Landfill, Monterey County -- (January Board Item 1)	5
Motion	10
Vote	11
C. Consideration Of A Revised Full Solid Waste Facilities Permit (Disposal Facility) For The Paso Robles Landfill, San Luis Obispo County -- (January Board Item 2)	11
Motion	14
Vote	14
D. Consideration Of A New Full Solid Waste Facilities Permit (Transfer/Processing Facility/CDI Processing Facility) for Z Best Grinding Inc., Riverside County -- (January Board Item 3)	14
Motion	16
Vote	16
E. Consideration Of A New Full Solid Waste Facilities Permit (Compostable Materials Handling Facility) For Coachella Valley Compost, Riverside County -- (January Board Item 4)	16
Motion	25
Vote	25
F. Consideration Of A New Solid Waste Facilities Permit (Compostable Materials Handling Facility) For Modesto Co-Compost Facility, Stanislaus County -- (January Board Item 5)	26
Motion	30
Vote	30

INDEX CONTINUED

	PAGE
G. Public Hearing and Consideration of the Imposition of Penalties Against The City of Cerritos, Los Angeles County, Pursuant to Compliance Order IWMA BR07-02 (Public Resources Code Section 41850 -- (January Board Item 6) -- NOTE: Moved to the Full Board meeting on Wednesday, January 23, 2008	
H. Consideration Of The Completion Of Compliance Order IWMA BR02-01 For The City of Fortuna, Humboldt County -- (January Board Item 7)	31
Motion	50
Vote	51
I. Consideration Of Adoption Of Emergency Regulations For The Issuance Of Temporary Solid Waste Facilities Permits For Solid Waste Transfer Or Processing Stations And Composting Facilities Pursuant To AB 1473, Statutes Of 2007 -- (January Board Item 8)	51
Adjournment	94
Reporter's Certificate	95

1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good afternoon, everyone.

3 Welcome to the January 14th meeting of the
4 Permitting & Compliance Committee, and I want to wish
5 everyone a happy new year.

6 We do have agendas on the back of the table. And
7 if anyone would like to speak to the committee, I ask that
8 you fill out a speaker slip and bring it up to Donnell.
9 And before we get started, I would also like to ask
10 everyone to please either turn off or put in the silent
11 mode your cell phones and pagers.

12 And with that, Donnell, would you call the roll,
13 please.

14 EXECUTIVE ASSISTANT DUCLO: Members Danzinger?

15 MEMBER DANZINGER: Here.

16 EXECUTIVE ASSISTANT DUCLO: Peace?

17 MEMBER PEACE: Here.

18 EXECUTIVE ASSISTANT DUCLO: Chair Mulé?

19 CHAIRPERSON MULÉ: Here.

20 Members, do we have any ex partes?

21 MEMBER PEACE: I am up-to-date.

22 CHAIRPERSON MULÉ: And I just spoke to Mark Payan
23 regarding Item 8.

24 With that, I just want to make one note. Item 6
25 will be heard at the full Board. I believe that is

1 committee Item G. And that will be heard at the full
2 Board.

3 So with that, let's move to the program director's
4 reports.

5 Ted?

6 PROGRAM DIRECTOR RAUH: Thank you, Chair Mulé and
7 members of the Board. I'm Ted Rauh, director of the Waste
8 Compliance and Mitigation Program.

9 And I would like to quickly hit up just a couple
10 of items for the committee. First, the Sunshine Canyon
11 Landfill permit application was received on
12 January 8th and will be -- or have been -- begun the
13 processing of that application. As the EA, we are seeing
14 that that application will be coming before you at the May
15 Board meeting, subject to our continuing the full process
16 period and the City and County of L.A. not completing
17 their efforts to form a joint LEA for that project.

18 To that end, the City and County have provided us
19 with some of the initial parts of an EPP for the project,
20 and we're reviewing those. And we'll continue to work
21 with them on both the efforts of jointly reviewing the
22 application and creating a joint LEA for the eventual
23 oversight of the facility.

24 A couple of branch manager changes I would like to
25 bring to your attention. Bonnie Cornwall is the new

1 branch manager for the LEA and Tire Training and Health
2 and Safety Branch, a branch with a long enough title that
3 we should look at that, I'm sure.

4 And we also have Trevor O'Shaughnessy, who will be
5 the acting branch manager for the Jurisdiction & Minimum
6 Content Compliance Branch.

7 Another change, someone who's been helping us
8 extensively with the Illegal Dumping Task Force, Ken
9 Stuart is the -- or has accepted a role as the interim
10 director of health -- or the Environmental Health Program
11 for Tuolumne County and will be starting this week. He is
12 going to make efforts to help us, in at least over the
13 short run, to complete some of the tasks on illegal
14 dumping. We're not sure how long that assignment will run
15 for Ken, but we're very excited about it because we've
16 been working with Tuolumne County, as you know, on issues
17 with respect to solid waste. And we feel with him in that
18 role, we'll have an excellent opportunity to continue good
19 progress with the county.

20 Finally, some notes on the Southern California
21 fire efforts. Last week, the state -- the Cal/EPA finally
22 received the final report of all of the statistically
23 valid sampling of the ash from the various locations in
24 which the fires occurred. And as you know, when that fire
25 initially occurred, Cal/EPA made a finding of a public

1 health concern, as a result of our experience in past
2 fires, which led of course to the approach taken to deal
3 with burn ash and debris from the fire.

4 Local governments made similar findings, but the
5 FEMA folks, federal government, requested that a more
6 systematic analysis be done. And so Cal/EPA, working with
7 USEPA, completed that analysis. The results are in, and
8 the initial findings by the state were substantiated by
9 that analysis as public health concerns, for both arsenic
10 and lead were found in every one of the samples taken as a
11 result of that extensive review of the burn area.

12 That information will be used by local governments
13 that are filing for cost reimbursement from FEMA, and it
14 will make a significant difference in the amount of that
15 ash removal that will be covered under FEMA funding. So
16 we're quite excited that's been completed.

17 As an overall debris stat, well over 300 homes
18 have had debris removed from the various jurisdictions
19 under the various programs that the Board staff have been
20 working extensively with local government to carry out.
21 And with that, that completes my staff report.

22 CHAIRPERSON MULÉ: Thank you, Ted.

23 Do we have any questions for Ted? No questions?

24 And also I would like to recognize Board Member
25 Chesbro. Thank you for being here.

1 With that, let's move forward into our agenda.

2 The first item is Committee Item B.

3 Ted?

4 PROGRAM DIRECTOR RAUH: Yes. Thank you, Chair

5 Mulé.

6 This item is Consideration of a Revised Full Solid
7 Waste Facility Permit for the Johnson Canyon Sanitary
8 Landfill in Monterey County.

9 And here to present the item is Virginia
10 Humphreys.

11 MS. HUMPHREYS: Good afternoon, Committee Chair
12 and members.

13 This item is for Consideration of a Revised Solid
14 Waste Facilities Permit for the Johnson Canyon Landfill.

15 The Johnson Canyon Landfill is a class 3 disposal
16 site located approximately 2 miles east of the city of
17 Gonzalez in Monterey County and is owned and operated by
18 the Salinas Valley Solid Waste Authority.

19 The facility opened to the public in July of 1976,
20 and the Board last concurred on a revised permit in
21 December of 2003.

22 This facility accepts only nonhazardous
23 residential, commercial and industrial waste. Recycling
24 and resource recovery activities are conducted at the site
25 and include salvaging of tires, large metals and white

1 goods, recycling of C&D waste and universal hazardous
2 waste.

3 No designated special, medical, liquid, or
4 hazardous waste will be accepted at the facility for
5 disposal. And a load checking program will continue to be
6 implemented to ensure that unauthorized wastes are not
7 received.

8 On November 29th, 2007, Board staff conducted a
9 prepermit inspection at the Johnson Canyon Landfill and
10 found that the site is in compliance with state minimum
11 standards and all Board requirements.

12 Since the agenda item was published, closure staff
13 have also made a finding and determined that the
14 preliminary closure/post-closure maintenance plan is
15 complete and consistent with state minimum standards.

16 The proposed permit includes the following: A
17 change in permitted maximum tonnage from 425 tons per day
18 to 1,574 tons per day; a change in permitted traffic
19 volume from 125 vehicles to 265 total vehicles entering
20 the site; expansion of the permitted disposal areas from
21 80 acres to 96.3 acres; an increase in elevation from 436
22 to 506 above mean sea level; a change in depth of the
23 landfill from 296 to 285 mean sea level.

24 The proposed permit would allow for both vertical
25 and lateral expansion of the disposal footprint but would

1 not expand the current perimeter boundary -- or permitted
2 boundary.

3 Further, all active and future modules have been
4 or will be constructed with a composite liner system that
5 includes a leachate collection system to effectively
6 collect and remove leachate from the landfill.

7 The Monterey County LEA has provided a finding
8 that the proposed solid waste facility permit is
9 consistent with and -- is consistent with and supported by
10 the cited environmental document, and Board staff has
11 determined that all the requirements for the proposed
12 permit have been fulfilled.

13 Therefore, Board staff recommends Option 1,
14 concurrence with the issuance of the proposed permit
15 submitted by the LEA and adopt Resolution 2008-07.

16 Representatives of the LEA and operator are
17 present today to answer any questions.

18 And this concludes staff presentation.

19 CHAIRPERSON MULÉ: Thank you, Virginia. And thank
20 you all for being here.

21 Are there any questions for either staff or the
22 operator on this?

23 Board Member Peace?

24 MEMBER PEACE: I just have a couple questions for,
25 I guess, the operator.

1 In the item --

2 CHAIRPERSON MULÉ: Steve, you might as well come
3 up.

4 MR. JOHNSON: I guess I better. Steve Johnson,
5 general manager, Salinas Valley Solid Waste Authority.

6 MEMBER PEACE: I just got to ask you a couple
7 questions again. It says that at the landfill, recycling
8 and recovering activities include the salvaging of tires.

9 Just wondering if you could tell me how much you
10 charge per person to leave a tire at the landfill.

11 MR. JOHNSON: Well, there's two types of salvaging
12 of tires that take place at all of our landfills. One of
13 them is an annual tire amnesty program, which is the most
14 popular program we do the entire year. And for that, the
15 charge is zero, and that's when we get the largest volume
16 of tires throughout the year. We do it for a week at a
17 time per site.

18 Any other time of the year, if those people can't
19 save it for the remainder of the year, it's \$3 for a
20 passenger tire, \$5 for a tractor.

21 MEMBER PEACE: Can you tell me how you recycle the
22 tires or what you do with them?

23 MR. JOHNSON: The tires are collected and placed
24 into a large cargo trailer, and we contract with a tire
25 recycler who hauls them off and ships some of them. And

1 quite frankly, I don't know what the final destination is
2 for a number of those, but they are a licensed tire
3 recycler.

4 MEMBER PEACE: Do you use any of them for ADC?

5 MR. JOHNSON: We do not. We have plenty of other
6 ADC if we want to use it.

7 MEMBER PEACE: That's what I was going to ask you
8 about recycling of your C&D. How do you recycle the C&D,
9 and what do you do with it?

10 MR. JOHNSON: Right now, we are grinding the C&D
11 and use it for ADC at Johnson Canyon only in the short
12 term because we're just trying to determine what kind of
13 tonnage we can classify as C&D before we get to a higher
14 level of processing.

15 MEMBER PEACE: The other question I had on your
16 closure/post-closure funding mechanism, I believe it's a
17 pledge of revenue; is that correct?

18 MR. JOHNSON: That's correct.

19 MEMBER PEACE: And also, on your community
20 outreach, there were some questions that were raised. And
21 one of the them had to do with the adequacy of the water
22 supply to maintain the vegetative use screen.

23 And can you tell us what you are doing to ensure
24 that there is adequate water supply.

25 MR. JOHNSON: That was a public comment item that

1 came forward after the hard freezes of last winter when a
2 number of the plants along the slope died not because of
3 lack of water, but because it was 15 degrees Fahrenheit.

4 We do have adequate water, and we are always
5 attempting to develop additional sources of water in terms
6 of recycled waters rather than virgin water. But we do
7 have adequate water.

8 MEMBER PEACE: I think I heard that you were
9 talking about getting some wastewater from a winery.

10 MR. JOHNSON: Yes. We were working right now with
11 the Pacific Wine Partners who own and operate a winery in
12 Gonzalez, two miles away, and who generate up to
13 200,000 gallons of wastewater per day.

14 And we're -- the difficulty is we have a WDR; they
15 have a WDR. We've got to work through the Water Board to
16 transfer the water from their property to ours. But
17 hopefully when the six months, by this coming summer,
18 we'll have that in place.

19 MEMBER PEACE: Okay. Thank you.

20 MR. JOHNSON: Thank you.

21 CHAIRPERSON MULÉ: Okay. Any other questions?

22 Do I have a motion?

23 MEMBER PEACE: I would like to move Resolution
24 2008-07.

25 MEMBER DANZINGER: Second.

1 CHAIRPERSON MULÉ: It's moved by Member Peace,
2 seconded by member Danzinger.

3 Donnell, would you call the roll, please.

4 EXECUTIVE ASSISTANT DUCLO: Danzinger?

5 MEMBER DANZINGER: Aye.

6 EXECUTIVE ASSISTANT DUCLO: Peace?

7 MEMBER PEACE: Aye.

8 EXECUTIVE ASSISTANT DUCLO: Chair Mulé?

9 CHAIRPERSON MULÉ: Aye.

10 Put that one on consent.

11 Thank you again for being here.

12 Our next item is Committee Item C, Board Agenda
13 Item 2.

14 Ted?

15 PROGRAM DIRECTOR RAUH: Yes, thank you, Chair
16 Mulé.

17 Item C is Consideration of a Revised Full Solid
18 Waste Facilities Permit for the Paso Robles Landfill in
19 San Luis Obispo County.

20 And here today to present the staff's case is
21 Christine Karl.

22 MS. KARL: Good afternoon, Chair Mulé and members
23 of the committee.

24 The Board is the LEA for this item and it
25 considers a revised full permit for the Paso Robles

1 Landfill in San Luis Obispo County, which is owned and
2 operated by the City of Paso Robles Public Works
3 Department.

4 The operator is proposing to increase the amount
5 of tonnage received from 250 tons per day to 450 tons per
6 day and change the estimated closure year from 2034 to
7 2051 and open the landfill one hour earlier at 7:00 a.m.
8 instead of 8:00 a.m. for the public.

9 A change was made to this item since it was
10 published. In your packets on page 3, the second
11 paragraph, "The operator is no longer disposing of used
12 tires on site and they are all being diverted."

13 Staff prepared this item in compliance with all
14 applicable regulations and recommends the Board concur in
15 permit 40-AA-0001 and Resolution 2008-09.

16 This concludes my presentation. And myself or
17 representatives from the operator are here if you have
18 questions.

19 CHAIRPERSON MULÉ: Thank you, Christine.

20 Do we have any questions for staff or the
21 operator? Any questions?

22 MEMBER PEACE: I have a couple of questions, and
23 either one can answer them.

24 Where it says, "All tires are now diverted from
25 disposal." I was going to wonder also, how much do they

1 charge to take a tire?

2 MS. KARL: I'm not sure.

3 This is Jim Wise with Pacific Waste Services.

4 MR. WISE: Good afternoon. My name is Jim Wise.

5 I'm with Pacific Waste Services. We're the contract

6 operator for the Paso Robles Landfill.

7 The current tipping fee is \$2.50 per passenger

8 tire, no rims; \$5 for a truck-sized tire, no rims; and

9 then the prices go up as they are larger and/or have rims
10 with them.

11 MEMBER PEACE: You say all those go to a recycling
12 facility; you don't use them for ADC; that's correct?

13 MR. WISE: We do not use them for ADC. We have
14 considered doing that. We actually have historically sent
15 it to Chicago Grade Landfill, where they grind it and use
16 the material for ADC.

17 MEMBER PEACE: So you don't use it as ADC, but you
18 send them to somewhere that does grind them up and use
19 them for ADC?

20 MR. WISE: They just have a lot larger quantity.
21 We have a fairly limited tonnage that comes through the
22 landfill site.

23 MEMBER PEACE: And also I was going to ask you
24 about your construction demolition. What do you do with
25 that?

1 MR. WISE: It's primarily an equipment and hand
2 sort of metals, wood, brush material, concrete, asphalt.
3 Tires, obviously, are pulled out. And they get separated
4 into sprite piles. The metals recycled are taken off site
5 to a metal recycler. The wood waste is ground and taken
6 either to a biomass or to a composting facility. And then
7 concrete's reused on site as an alternative for importing
8 rock for roads.

9 MEMBER PEACE: Okay. Thank you.

10 CHAIRPERSON MULÉ: Okay. Do I have a motion?

11 MEMBER PEACE: I would like to move Resolution
12 2008-09.

13 MEMBER DANZINGER: Second.

14 CHAIRPERSON MULÉ: It is moved by Member Peace
15 seconded by Member Danzinger.

16 We can substitute the previous roll, and we'll put
17 that one on consent as well.

18 Thank you, Christine, and thank you for being
19 here, Jim. Appreciate it.

20 Our next item is Committee Item D, Board Agenda
21 Item 3. Ted?

22 PROGRAM DIRECTOR RAUH: Thank you.

23 This item, Chair and committee members, is
24 Consideration of a New Full Solid Waste Facility Permit
25 for a Transfer/Processing Facility/CDI Processing for the

1 Z Best Grinding, Incorporated Facility at Riverside
2 County.

3 Here to present the item is Diane Ohiosumua.

4 CHAIRPERSON MULÉ: Good afternoon, Diane.

5 MS. OHIOSUMUA: Good afternoon. The proposed
6 permit will allow the following: The operation of a large
7 volume transfer/processing facility and a large volume CDI
8 processing facility under a full -- a new full solid waste
9 facility permit; there will be a maximum tonnage of
10 1,500 tons per day; the facility acreage is 25 acres; the
11 traffic volume is 450 total vehicles.

12 At the time this item was prepared, Board staff
13 had determined all but three of the requirements for the
14 proposed permit. Now Board staff has made all the
15 required findings including the finding that the size is
16 in compliance with the state minimum standards; the report
17 of facility information meets the requirements; the
18 environmental document is adequate.

19 Board staff finds that the LEA has made all the
20 necessary findings relevant to the permit. Therefore,
21 Board staff recommends that the board adopt Solid Waste
22 Facility Permit Decision No. 2008-06 concurring with the
23 issuance of a Solid Waste Facility Permit No. 33-AA-0309.

24 A representative from the operator as well as the
25 Riverside County LEA are here to answer your questions.

1 That concludes staff's presentation.

2 CHAIRPERSON MULÉ: Thank you, Diane.

3 Do we have any questions for Diane or the
4 operator? Do we have any questions? Any questions?

5 Diane, my understanding is that when you went out
6 on the inspection on the 13th of December, there was an
7 issue with the load check plan.

8 MS. OHIOSUMUA: That's correct.

9 CHAIRPERSON MULÉ: And those issues have been
10 resolved?

11 MS. OHIOSUMUA: Yes, they have.

12 CHAIRPERSON MULÉ: Okay. Just wanted to double
13 check on that.

14 Any other questions on this?

15 Do I have a motion?

16 MEMBER PEACE: I would like to move Resolution
17 2008-06, Revised.

18 MEMBER DANZINGER: Second.

19 CHAIRPERSON MULÉ: Moved by Member Peace; seconded
20 by Member Danzinger.

21 We'll substitute the previous roll, and we will
22 put that on consent as well.

23 Thank you all for being here.

24 That moves us to committee Item E, Board Agenda
25 Item 4.

1 PROGRAM DIRECTOR RAUH: Yes, Chair Mulé and
2 members.

3 This item is Consideration of a New Full Solid
4 Waste Facilities Permit for the Coachella Valley
5 Composting Facility in Riverside County.

6 Here to present the item is Bill Marciniak.

7 CHAIRPERSON MULÉ: Hi, Bill.

8 MR. MARCINIAK: Good afternoon, Madam Chair and
9 Board members.

10 Coachella Valley Composting Facility is located
11 within the boundaries of the closed Coachella Landfill in
12 Riverside County as operated by Agri Services
13 Incorporated. The land is owned by the Riverside County
14 Waste Management Department.

15 The proposed new full solid waste facilities
16 permit will allow for the following: Receipt of
17 compostable materials will occur Monday through Friday,
18 6:30 a.m. to 4:30 p.m.; and Saturday, 7:00 a.m. to 3:00
19 p.m.; ancillary operating hours will be from 5:30 a.m. to
20 6:30 p.m.; the facility's permitted tonnage will be a
21 maximum 250 tons per day; the facility acreage will be 35
22 acres; the design capacity of the facility for storage and
23 feedstock, active composting and product on-site at any
24 one time will be 40,000 cubic yards; and the following
25 feedstocks will be accepted: green materials, clean wood,

1 palm fronds, and source separated from scraps. The
2 process water for the compost operation will also be
3 supplemented with grease trap liquids from restaurants.

4 The LEA has certified that the application package
5 is complete and correct and that the reported facility
6 information meets the requirements of the California Code
7 of Regulations.

8 The LEA has also determined that the permit is
9 consistent with and supported by existing California
10 Environmental Quality Act analysis. Board staff have also
11 reviewed the proposed permit and supporting documentation
12 found to be acceptable.

13 In conclusion, Board staff recommends Option 1,
14 that the Board adopt Resolution 2008-5 for Solid Waste
15 Facility Permit 33-AA-0292.

16 Laurie Holk of the LEA and Mary Matava of Agri
17 Services, Inc., and myself are available to answer any
18 question you may have.

19 CHAIRPERSON MULÉ: Thank you, Bill. And thank you
20 all for being here.

21 Is there any questions for the operator or staff?
22 Board Member Peace?

23 MEMBER PEACE: I just have some questions. In the
24 item, it says that you are still going to need to obtain
25 and submit to the LEA the updated waste discharge

1 requirements, that in order to take more food waste and
2 grease traps.

3 MR. MARCINIAK: The -- Laurie can probably answer
4 this better. The tentative WDRs, I believe, are already
5 approved. They just have to issue it.

6 MS. HOLK: Good afternoon, Madam Chairman and
7 members of the committee.

8 My name is Laurie Holk for Riverside County LEA.

9 The waste discharge requirements have been
10 drafted. The Board meeting is due to be held -- it was
11 supposed to be held January, but now it will be March,
12 before the Waste Board -- I mean the Water Board holds
13 their meeting.

14 Originally, the Water Board thought that they
15 could just write a letter stating that they could take the
16 grease trap pumpings. When they looked at the way they
17 wrote the prohibitions in the original WDR, they couldn't
18 do that.

19 In one place, they said they could, and in another
20 place in the WDR, they said they couldn't. So they are
21 revising new WDRs and those have been drafted, and we have
22 reviewed them.

23 And when the board meeting goes into effect, now
24 it looks like March before the regional board will meet on
25 that. Until that time, we will not allow them to accept

1 the grease trap pumpings.

2 MEMBER PEACE: I was going to ask, if we approve
3 this today still means that you cannot take certain things
4 until you --

5 MS. HOLK: That's correct.

6 MEMBER PEACE: And also, it says take like 12,500
7 gallons a day of grease trap liquid. Could you just
8 educate me a little bit on the process? Do you, like, go
9 to a restaurant, and then you get it --

10 MS. HOLK: When you go to a restaurant, they have
11 what they call grease interceptors. And all the
12 grease-generating materials go down into the grease
13 interceptor, and there's a lot of water in there plus the
14 floating grease.

15 When the pumper comes to the restaurant, they pump
16 the grease and the water. And it's 98 percent water,
17 basically. That material is then taken to the composting
18 facility and spread on the windrows and used to supplement
19 the water.

20 They are currently doing that at California
21 Biomass already, at one of our other composting
22 facilities. And it just adds a little extra material and
23 basically supplements the water so that you are reusing
24 the wastewater.

25 MEMBER PEACE: So is that -- the grease that's in

1 there, that's good compost?

2 MS. HOLK: It composts very nicely, yes.

3 MEMBER PEACE: Okay. Thank you.

4 CHAIRPERSON MULÉ: Any other questions?

5 Board member Danzinger?

6 MEMBER DANZINGER: This is just directed to staff
7 or the operator. I'm just curious, how burdensome, just
8 generally speaking, how lengthy and burdensome was this
9 process from our standpoint? Not from the water
10 standpoint, but from the waste standpoint, just the
11 permitting and all of that?

12 Because I notice -- I mean, the standardized tier
13 is no longer available, so we have to do the compostable
14 materials handling facility to -- permit which is, I
15 guess, a solid waste facility, a full permit. So I'm just
16 curious how much more -- how long did this take?

17 MS. HOLK: Two years.

18 MEMBER DANZINGER: Two years.

19 DIVISION CHIEF DE BIE: Mark de Bie with the Waste
20 Management Board.

21 Laurie, correct me if I'm wrong, but this wasn't
22 just moving from a standardized to a full. There were
23 some expansions and some changes that needed to be
24 reviewed through the CEQA process locally and that sort of
25 thing.

1 MS. HOLK: Correct. And that's why it took two
2 years because we didn't go just from a standard. They
3 added the grease trap and they added additional materials
4 that were not allowed under the standardized permit.

5 MEMBER DANZINGER: You know, I'm not questioning
6 any of the players. I'm just curious about the, you know,
7 any unintended -- I mean, I look at the item and I see
8 very little change in this operation.

9 I see the expansion of a couple thousand cubic
10 yards. And the big changes that I detected was that they
11 are doing more diversion and less water usage and, you
12 know, they had to go through this whole process and
13 composting operations are already at a competitive
14 disadvantage. I'm not saying we ought to let them slide,
15 you know, where public health and safety and all that is
16 concerned.

17 I just want to make sure that we're constantly
18 reappraising, you know, what we're putting these
19 operations through in a permitting -- because, again, a
20 lot of them, they are legitimate and these are substantial
21 issues that have to be addressed.

22 But just when I look at it on paper, I don't see a
23 whole lot of change from what they are doing. Most of it
24 is for the considerable better. And I just wanted to get
25 a sense in my mind, you know, the burden, the time, the

1 cost, all of that, that went into this, so that they could
2 do a better job than what they were doing before, and
3 whether some of that was unintended because of how we set
4 up, you know, this new tier.

5 PROFESSOR BEA: Ted's busy writing and I don't
6 want to jump in ahead. But you set up a great opportunity
7 for a plug on something that our program is working with
8 sustainability on. And that is a workshop sometime in
9 April dealing with citing and capacity issues relative to
10 diversion facilities to drill down and see what are the
11 issues, what are the concerns that are confronting
12 operators that want to establish new diversion activities
13 like composting facilities or conversion technology
14 facilities or expand ones at all levels.

15 And then examine what kind of role the Board
16 should play relative to that. If our process is hampering
17 it, are there things that we can do to streamline our
18 process to make it easier to navigate and get through? If
19 there are issues locally, are there tools, information,
20 guidance, something that the Board could develop to assist
21 that process? So we're ramping up to that in line with
22 the outcomes of the organic summit and moving forward in
23 that area.

24 MEMBER DANZINGER: Great answer, Mark.

25 BOARD MEMBER CHESBRO: Madam Chair?

1 CHAIRPERSON MULÉ: Board member Chesbro.

2 BOARD MEMBER CHESBRO: While I agree
3 wholeheartedly with the gist of the question and the
4 comment by Board -- Committee Member and Board Member
5 Danzinger, and one other answer -- and it's related,
6 actually -- is that I think -- I don't know if it's on
7 this agenda, but I know it's on the Board's agenda next
8 week, is the regulatory -- the schedule of regulatory
9 issues we're going to be dealing with.

10 And on that list is a review of several aspects of
11 compost permitting that I hope will address the concern
12 that you're raising. It hasn't been narrowly defined yet
13 exactly what that's going to be. But my conception of it,
14 based on concerns that we've heard and I've heard, have to
15 do with questions of food waste composting and how -- what
16 kind of difficulties or obstacles we may be creating
17 there, and also questions of the volumes at different
18 times of year for on-farm composting. Those are two
19 issues that have been identified by various composters and
20 would-be composters as obstacles.

21 So I do think we have an opportunity this coming
22 year, growing out of our organic summit and the priority
23 we're putting on composting, to really examine that
24 question. And I'm really glad you took advantage of the
25 opportunity to put it in front of us.

1 CHAIRPERSON MULÉ: Good question. And good
2 comments.

3 And I know that Mary's been working very hard on
4 getting this facility in place. And so I just want to
5 commend you for your efforts.

6 Do we have any other questions or comments?

7 MEMBER PEACE: I know that Jeff said, I think
8 we're always hearing from constituents that the permitting
9 process is burdensome, not only with us but the Water
10 Board and Air Board. And I think all of us agree that
11 whatever we can do to time to streamline things and make
12 things not so burdensome, we're always looking for ways to
13 do that.

14 MEMBER DANZINGER: And recognizing the players we
15 need in the game. In the medical profession, it's the old
16 axiom, "First do no harm." I look at this item and, you
17 know, what was running through my mind was at the very
18 least, let's not reinforce the old adage of "No good deed
19 goes unpunished."

20 CHAIRPERSON MULÉ: Okay. Thank you all. Do I
21 have a motion?

22 MEMBER PEACE: I would like to move Resolution
23 2008-05.

24 MEMBER DANZINGER: Second.

25 CHAIRPERSON MULÉ: Moved by Member Peace and

1 seconded by Member Danzinger.

2 We can substitute the previous roll. And we'll
3 put that on -- that item on consent as well.

4 Thank you all for being here. Thanks, Bill.

5 Ted, let's move to our next item, Committee Item
6 F.

7 PROGRAM DIRECTOR RAUH: Thank you.

8 The last item, our last permitting item today, is
9 Consideration of a New Full Solid Waste Facilities Permit
10 for the Modesto Co-Compost facility in Stanislaus County.

11 And Joy Luther is here to present the item for
12 staff.

13 MS. LUTHER: Good afternoon, Madam Chair and Board
14 Members.

15 Serving the greater Modesto area and Stanislaus
16 County, Modesto Co-Compost Facility has been in operation
17 for over ten years and currently operates under a
18 standardized permit. But since the standardized permit is
19 no longer available, the facility must apply for a new
20 full solid waste facilities permit as a compostable
21 materials handling facility.

22 The proposed new full solid waste facilities
23 permit would allow the facility to, one, continue to
24 permit a total maximum tonnage of green waste, food waste,
25 and class B biosolids up to 500 tons per day; two, add a

1 new -- add new equipment including a horizontal grinder;
2 three, add commercial food waste, more residential food
3 waste, paper, and other compostable organics to the list
4 of feed stock materials; four, add a new modular scale
5 house and office building; and five, relocate the existing
6 building to be used as a training and education room.

7 The City of Modesto prepared a negative
8 declaration declaring that the proposed facility will not
9 have any significant environmental impacts. The Board,
10 who is also the EA for the County of Stanislaus, held a
11 public meeting on October 24th, 2007, to comply with Title
12 14, Sections 21660.2 and 21660.3.

13 No members of the public and only one member of
14 the media, the Patterson Irrigator newspaper, were in
15 attendance, and no comments were received for the permit.

16 Board staff have determined that all requirements
17 for the proposed permit have been fulfilled. Staff
18 recommends that the Board adopt Board Resolution 2008-08
19 approving the issuance of the Solid Waste Facility Permit
20 No. 50-AA-0018.

21 This concludes staff's presentation. I would be
22 happy to answer any questions you may have.

23 Nathan Gorth, the operator at Modesto Co-Compost
24 is also here to answer any questions.

25 Thank you.

1 CHAIRPERSON MULÉ: Thank you, Joy. And thank you,
2 Nathan, for being here.

3 Are there any questions for either staff or the
4 operator?

5 Board Member Peace?

6 MEMBER PEACE: Can I ask a question of the
7 operator?

8 MR. GORTH: Good afternoon. I'm Nathan Gorth with
9 the city of Modesto.

10 MEMBER PEACE: I'm just reading through the item
11 that says that you have windrows and each pile takes four
12 to six months. Doesn't that seem like an awful long time?

13 MR. GORTH: It can be a shorter time just
14 depending on how you process it with temperature and
15 moisture content. But three to six months might be more
16 fair.

17 MEMBER PEACE: I just have a general question.
18 You talk about, you want to take more residential
19 food waste. So where do you get the residential food
20 waste from?

21 MR. GORTH: We have a pilot program. So we're
22 targeting restaurants and we have special bins. We're
23 working with the haulers on collecting food waste.
24 Currently, we have about four to six restaurants, and
25 we're just trying to get the kinks out of the system and

1 get that program going.

2 MEMBER PEACE: Right. And this is more commercial
3 than --

4 MR. GORTH: Commercial food waste, right.

5 We do collect a little bit of residential food
6 waste in our green yard waste can for the residential
7 customers. But it's a very, very small amount.

8 MEMBER PEACE: I guess that was going to be my
9 next question. You did collect residential food waste.
10 I'm just wondering how you and the county educated the
11 public on what to put in there.

12 MR. GORTH: Most of it is in our new resident
13 packets, and we have fliers and brochures. And we have
14 Web site information. So we just get it out in that
15 manner.

16 MEMBER PEACE: Okay. Thank you.

17 CHAIRPERSON MULÉ: Thank you, Nathan.

18 And before I go further, I would like to welcome
19 our Chair Brown and Board Member Petersen.

20 Thank you for being here. Good afternoon.

21 Any other questions?

22 MEMBER DANZINGER: No. Just before we take the
23 roll and substitute the previous roll, I will just
24 substitute the previous comments that were made in the
25 last item related to the same thing.

1 And also thank you for the -- you know, for taking
2 on commercial food waste and more residential food waste,
3 which is the largest part of our waste stream and seems
4 almost nobody wants to deal with it.

5 So thank you for taking that on.

6 DIVISION CHIEF DE BIE: Madam Chair, if I may.

7 CHAIRPERSON MULÉ: Mark?

8 DIVISION CHIEF DE BIE: I'd like to substitute my
9 previous comment, but to add to them to indicate that the
10 move from this standardized permit to a full permit took
11 about four months to go through this process. So it does
12 vary in terms of site and length of local requirements.
13 So there is variation in the process.

14 CHAIRPERSON MULÉ: Good to know. Thank you for
15 sharing that information with us.

16 BOARD MEMBER CHESBRO: I will substitute my
17 previous comments.

18 CHAIRPERSON MULÉ: Does anyone else want to?

19 Okay. Do I have a motion?

20 MEMBER PEACE: I would like to move Resolution
21 2008-08.

22 MEMBER DANZINGER: Second.

23 CHAIRPERSON MULÉ: Moved by Member Peace; seconded
24 by Member Danzinger.

25 We will substitute the previous roll and we will

1 put this item on consent.

2 Thank you, Joy, again for being here. Thank you,
3 Nathan.

4 And with that, we're going to move to Committee
5 Item H, Board Agenda Item 7.

6 Looks like Howard, you're up.

7 PROGRAM DIRECTOR LEVENSON: Good afternoon, Madam
8 Chair and Board Members. I'm Howard Levenson with the
9 Sustainability Program.

10 And we're here to present agenda Item 7, which is
11 Consideration of the Completion of Compliance Order IWMA
12 BR02-01 for the City of Fortuna in Humboldt County.

13 As you know, this item is the culmination of a
14 lengthy process that entailed placing the City on a
15 compliance order, providing assistance to the City, and
16 evaluating its progress in addressing the issues that led
17 to the issuance of the order.

18 I'm very pleased to report that staff has
19 concluded that the City has complied with the order, and
20 for details and staff's formal recommendations, I'd like
21 to turn to Michael Payan at my right.

22 MR. PAYAN: Thank you, Howard. Good afternoon,
23 Chair Mulé and Board Committee Members.

24 The Board at September 17, 2002, meeting issued
25 compliance order IWMA BR02-01 to the City of Fortuna for

1 not sufficiently implementing diversion programs
2 identified in its source reduction and recycling element.

3 The compliance order required the City to work
4 with the Office of Local Assistance staff to determine
5 gaps in existing program areas and make recommendations on
6 improving, expanding, or implementing new diversion
7 programs. Office of Local Assistance conducted a needs
8 assessment meeting with the city of Fortuna and outlined
9 the scope of the Local Assistance Plan, known as a LAP.

10 The City of Fortuna agreed to the LAP on
11 December 16th, 2002. However, when the city failed to
12 complete the programs identified in the local -- in the
13 original Local Assistance Plan, LAP, staff and the Board
14 met with the City staff to review the City's waste
15 generation and develop a second supplemental LAP,
16 primarily to deal with issues that were no longer
17 applicable to the first LAP and to develop a list of
18 additional programs that were necessary and more
19 attainable for the City to make progress in reaching AB
20 939 goals.

21 The Board at its July 19, 2005, meeting found, in
22 the course of a public hearing to consider fines, that the
23 City had failed to meet the obligations of the
24 supplemental LAP and levied a one-time administrative
25 penalty of \$5,000 and fines of \$200 a day starting

1 July 19, 2005.

2 However, the Board stipulated that if the City
3 completed the major programs identified by October 31st,
4 2005, that the fines would be suspended. The City was
5 able to complete the implementation of the identified
6 programs and reported such to the executive director of
7 the Board as stipulated in the Board's findings and order.
8 Therefore, the fines were suspended.

9 Board staff has concluded that the City has worked
10 aggressively to implement all LAP programs and has
11 submitted the required LAP status updates. Expansion of
12 curbside mixed recycling and a new green waste curbside
13 collection program have more fully addressed the
14 residential waste stream. The city and its hauler have
15 also focused attention on and expanded diversion in the
16 commercial sector.

17 As program improvements continue to be made,
18 further diversion increases are expected in the future.
19 The City's preliminary 2005 diversion rate is at
20 49 percent. The City plans to conduct and submit a new
21 base year study covering calendar year 2006.

22 Board staff has conducted numerous site visits to
23 the City, the most recent being January 2008, and has
24 verified full implementation of the compliance order
25 programs. Additionally, at this recent visit, Board staff

1 conducted a market assessment action plan, MAP, roundtable
2 discussion in an effort to better understand recycling
3 challenges and opportunities in the region.

4 This gathering was well received and was attended
5 by the City staff, the county local enforcement agent, and
6 private sector businesses. The City's local hauler and
7 transfer station operators have made an extensive effort
8 towards implementing a mixed C&D processing facility and
9 explained some challenges and issues he was experiencing
10 with permitting. The local enforcement agent at this
11 meeting acknowledged his efforts and offered their
12 expertise and guidance on this project.

13 Board staff feels that the city and local
14 stakeholders are working together in taking positive steps
15 to reaching AB 939 goals.

16 Board staff recommends the Board adopt Option 1,
17 ending the city's compliance order.

18 Today, City Manager Duane Rigge; recycling
19 coordinator Angie Wood; and Parks and Recreation Director
20 John Proddy are present representing the city of Fortuna
21 and are here to address the Board and answer any questions
22 or concerns.

23 This concludes Board's staff presentation.

24 CHAIRPERSON MULÉ: Thank you, Michael. And thank
25 you all for being here from the City of Fortuna.

1 You have speaker slips. So would you like to
2 address the committee? I have Duane Rigge first. Good
3 afternoon.

4 MR. RIGGE: Thank you, Madam Chair. This has been
5 a long process -- and members of this committee.

6 It's been a long process, and we appreciate your
7 patience in our task. And from a city manager's
8 perspective, I arrived at Fortuna three months after the
9 compliance order was issued. And so I have a great deal
10 of cheer and joy in my voice to hope that this might be
11 something I can actually say that we've accomplished. And
12 my city council is very pleased that we're here today and
13 that you are considering this action.

14 There are a couple of things that I also want to
15 complement your staff on. They have helped us through
16 some troublesome times, where we have essentially hit a
17 knot. We thought we were doing very, very well as a city,
18 probably into 2002. And then certain factors came into
19 play that we, quite frankly, didn't understand from a
20 global perspective.

21 And the tenacity of your staff essentially forced
22 us into really talking with what the situation was and our
23 waste hauler, Eel River Disposal. I will be very frank.
24 I attribute some of our big severe problems to our waste
25 hauler. And what I subsequently found out, and what we're

1 experiencing again today, in a small rural county -- and I
2 know there's legislation now underfoot that will probably
3 resolve some of these problems, and I'm delighted to think
4 that they will. Doing the accounting for a small city
5 like Fortuna, of 11,000 people, in a county of only about
6 125,000 people is very, very difficult when your landfill
7 is miles away and in another county.

8 So there was some waste that we have found that
9 were being attributed to the City of Fortuna in 2002 that
10 quite frankly weren't ours. But the waste hauler, the
11 independent haulers that were carrying it from there, did
12 business in Fortuna. So when it entered the landfill, it
13 entered as Fortuna's waste. And most of that in 2002 was
14 C&D, as we understand it. Of course, with the reporting
15 cycle being two years behind the curve, it's very
16 difficult to unring the bell.

17 Well, we're kind of experiencing that again today.
18 It's underfoot. Your staff is well aware of that. And I
19 think they are working on a wonderful action plan to help
20 resolve these accounting issues of where the waste is
21 going and who's generating them. But we're also very
22 proud and happy to say that your staff has helped us
23 resolve some very core issues with the public-private
24 partnership.

25 By forcing us into this compliance order and

1 imposing a fine that was ultimately waived, it put us into
2 a situation with our private hauler that realized that we
3 were truly partners. And so our hauler, Eel River
4 Disposal, willingly accepted the provision in our
5 franchise agreement that divides the fine penalty 50/50.
6 It has changed everything. We realize that we both need
7 to do something. And quite frankly, the vision of your
8 staff helped us get there. It was painful. It was
9 difficult. There were strong words on both sides of the
10 private and public partnership to get to that marriage.
11 But we're there today, and I talked with our hauler on
12 Friday afternoon, and he's very pleased with the progress
13 we're making.

14 The biggest challenge in front of us, besides the
15 accounting issue I mentioned, is to be able to deal with,
16 in our area, the C&D. We don't -- in our part of the
17 county, we don't have a C&D facility that's readily
18 available or essentially can deal with the situations that
19 we have. And so it's very difficult to impose a mandatory
20 regulatory issue on our builders and what have you if they
21 don't have a place to go. So we're working with Eel River
22 Disposal to site there. Their particular site is
23 currently outside of our city limits. They are in our
24 sphere of influence and we have an annexation discussion
25 that we might bring that city inside of our city limits.

1 But what we have asked them is what can we do to
2 help you? And not having ever been personally involved in
3 a siting program of a C&D facility, it is daunting. It is
4 really daunting. And I'm delighted to hear some of the
5 questions that were asked earlier today about that
6 process.

7 So we're trying to work with him, our disposal
8 system, of how we can get the C&D facility up and running.
9 Not only is it going to be good for the city of Fortuna,
10 but it would be good for certainly the southern part of
11 Humboldt County. Because I think some of the accounting
12 issues that we have with C&D material going to the
13 Anderson Landfill will be resolved. And we're always --
14 we consider ourselves in Fortuna as pragmatic,
15 problem-solving type of people, and we're trying to get
16 there. And we're delighted that maybe now that this
17 compliance order might be lifted, we can move on and make
18 the kind of progress that we want to make.

19 I learned some things out of this and found out
20 our community, like most communities, if you make the
21 service accessible, if you make it relatively acceptable,
22 if you make it convenient, they will use it.

23 So thank you for the opportunity to address you
24 today. And I look forward to the Board action on the
25 23rd. Thank you.

1 CHAIRPERSON MULÉ: Thank you, Mr. Rigge.

2 We do have a question for you, I believe.

3 BOARD MEMBER CHESBRO: It's good to see you.

4 MR. RIGGE: It's good to see you too.

5 BOARD MEMBER CHESBRO: Board Members, this is a
6 community just down the road, about the same size as the
7 town that I live in, up in Humboldt County. And then it
8 also happens to be where Donnell went to high school. I
9 happen to know because she's from even closer to Fortuna
10 than I am.

11 Congratulations on your progress. We appreciate
12 it. I know coming up in the recycling world and very
13 close by, there's many, many challenges that communities
14 elsewhere in the state, even of similar size, couldn't
15 even imagine. So there are real challenges.

16 I do think, though, we worked really hard back
17 when I was on the Board, back in the '90s, to try to build
18 in understanding of those difficulties. That was one of
19 my tasks and one of the goals I had. And I think we've
20 done that. And what we really expect is the effort. And
21 given that fact, I think you have gotten to some levels of
22 diversion that are certainly not shameful. I mean, but
23 then on the other hand, they haven't met the state goal.

24 I do have a question for you. And it's not really
25 a question. It might sound like one. But there is a

1 regional entity that includes the county and most of the
2 cities and Fortuna is not, I don't think, a member of
3 that. Correct me if I'm wrong. And I'm just curious if
4 you could sort of describe the pros and cons and why the
5 city has chosen the path it has chosen. And even though I
6 don't think that's -- this is not part of the criteria
7 that the committee and board will be considering. I'm
8 just asking for the sake of us understanding the
9 situation.

10 So that's the first part of the question. And the
11 second one is, will the authority -- are they doing a
12 program such as the C&D that you could, you know, whether
13 you are a member or not, somehow contract or pay you back
14 with their efforts to try to get a little bit more
15 economics of scale? I mean, I think that's why the other
16 cities formed the regional authority was to try to make
17 common cause and maybe get a little bit more size to make
18 things more economical.

19 And I know you have a separate franchise --
20 history of a separate franchise contract, and I'm assuming
21 that's part of your answer. But I'm just curious and you
22 could sort of lay out a little bit about the City's
23 thinking of how it's approached these issues.

24 MR. RIGGE: Quite frankly, I'm pleased you asked.
25 And yes, I don't see it as a loaded question.

1 I was a city manager of another city in Humboldt
2 County, when the Waste Authority, the original one, was
3 formed. And all the cities, except Trinidad, which was
4 because of its size, in the county joined together. So I
5 personally have a lot of work and effort in forming that
6 waste authority and what our goal and vision was at that
7 time.

8 And I wasn't the city manager in Fortuna when, in
9 fact, some political issues came about that essentially
10 forced the county and the other cities to form another
11 authority and leave Fortuna behind. It was about how
12 budgets were adopted. And it was financial matters. It
13 wasn't an issue of waste.

14 And in fact, Fortuna, you might recall, had the
15 first curbside recycling program in Humboldt County. But
16 to answer your question where we're going to go forward, I
17 don't know. We haven't been asked to become a member.

18 The biggest issue that we see in the economy on
19 scale, because we always look at those, is household
20 hazardous waste. Our residents do not have access without
21 paying a fee for household hazardous waste that is being
22 implemented by the Humboldt Waste Management Authority.
23 And we're going to explore that as to how we can do that.

24 But quite frankly, I don't know if anybody really
25 wanted to talk to us until our compliance order was lifted

1 for one reason or another. And from a personal point of
2 view, we try to leave these conversations at work because
3 my wife is the controller for that authority. So you
4 know, it's a small world.

5 BOARD MEMBER CHESBRO: It's a small county.

6 MR. RIGGE: But I can't really answer the
7 question. But we're not in an absolute, no way, no how
8 are we going to be a member. But we're looking for things
9 that make sense to us that maybe we can do, that make
10 sense in the local level. But we haven't completely put
11 that subject out of our mind. And as you appreciate, it's
12 my city council that will ultimately make that decision if
13 we're asked to become a member.

14 BOARD MEMBER CHESBRO: Well, it's not our role
15 under the law. It's our good sense to impose regionalism
16 or not -- regional solutions or not. They only work
17 really if it evolves some people -- if it evolved a
18 cooperative relationship to make it work.

19 But I just thought it would be helpful in terms of
20 rounding out the issues here, to hear what you have to say
21 about it.

22 So thanks.

23 MR. RIGGE: Thank you.

24 CHAIRPERSON MULÉ: Thank you, Duane.

25 We do have a couple more speakers.

1 Angie Wood. Do you want to come up? No?

2 And John, do you want to come up? No.

3 Okay.

4 With that, do we have any questions?

5 Board Member Peace?

6 MEMBER PEACE: I was going to ask the city
7 manager, Duane, a couple of questions.

8 I did want to agree with you when you make
9 programs accessible and easy that people really do want to
10 comply and do the right thing.

11 I was going to ask you about your curbside single
12 stream. Is that mandatory?

13 MR. RIGGE: No, it is not. Everything in our
14 city, particularly even the waste system, everything is
15 elective.

16 We have a transfer station within our city limits
17 that's operated by our hauler. And we joke about it. But
18 in Humboldt County, you can't live there unless you own a
19 pickup truck. So a lot of people self-haul.

20 The point of where this service is now being
21 bundled, now that we've added green waste, we have seen
22 growing use of the system, not only of curbside recycling
23 because it's simple. It's very much of a no-brainer. It
24 goes in that bin. Now that we've added greenwaste, which
25 I didn't really think would catch on, as the curbside

1 system is, people are starting to talk about bundling
2 these. And we're going to be having conversations with
3 our waste hauler of how we can put some economy of those
4 three things together and maybe reduce the price so
5 there's some incentive to take all three.

6 Does that answer your question?

7 MEMBER PEACE: Yes. I was seeing if the green
8 waste collection was voluntary. I didn't quite understand
9 whether the single stream was also. So everything is
10 voluntary?

11 MR. RIGGE: Everything is voluntary.

12 MEMBER PEACE: And I'm glad to hear you are
13 looking into a regional C&D facility. So you are saying,
14 your C&D material now goes to a transfer station. Is it
15 sorted out there at the transfer station?

16 MR. RIGGE: It's sorted out if it's brought
17 through the transfer floor, on the tipping floor. They
18 are -- they take a separate haul place for the people that
19 do have C&D.

20 But there's no process location at that end of the
21 county. There's only one that I know of, and that's at
22 the north end of the county out at Arcadia that does C&D.

23 And quite frankly, some of the larger loads that
24 come from C&D are outside, in the rural area of the
25 county, at the Southern Humboldt area. And our direct

1 haul to Anderson Landfill as C&D, that has not been broken
2 down. And that's where we got to solve the problem,
3 because a lot of that material can be used in Humboldt
4 County if there was just a facility to free it up, so to
5 speak, liberate it.

6 MEMBER PEACE: I notice that your diversion rates
7 for '03, '04, '05 were 45, 47, 49. They are continuing to
8 go up, which is wonderful.

9 But now with the implementation of all your
10 programs that's in full swing, do you expect to see that
11 50 percent in 2006?

12 MR. RIGGE: Yes. We're hopeful that it will grow.
13 There's really two things that, as I mentioned, are
14 affecting us, is, it's very hard to, as Board Member
15 Chesbro pointed out. By not being a member, it's pretty
16 hard to distinguish sometimes Fortuna's waste stream when
17 the transfer station is in Fortuna, because the waste
18 stream comes -- a vast majority of it comes from the
19 county, the city of Rio Del and the city of Ferndale as
20 well as us. So that accounting about where the waste is
21 actually being generated from is difficult.

22 The other part of it is there's a lot of C&D
23 that's being generated in the county that's direct haul to
24 Anderson. And we're seeing those numbers going up. But
25 we have little control of it. That's the reason I was

1 pointing out that we need to get a C&D facility in.

2 Our local programs are working. And I think
3 that's the number increase we're seeing. Until we solve
4 those other problems, we're not going to make the kind of
5 significant inputs or reaches for it.

6 The other part of it is, as most rural -- I guess
7 I shouldn't say "most." I can't speak to that. But in
8 our rural counties, per capita waste is pretty low
9 compared to the rest of California. So it's harder to get
10 anything out of that.

11 MEMBER PEACE: Right.

12 When you talk about most of your programs being
13 solitary versus mandatory, do you ever see a point that it
14 would be beneficial at all to make some of them mandatory?

15 MR. RIGGE: We're discussing that with council
16 now. It is a difficult question for people who sometimes
17 live in rural areas because they don't like to be told
18 what to do.

19 Universal garbage collection in Humboldt County is
20 a difficult subject for certain people, politically. We
21 have gone -- in your general plan update, we have
22 discussed that subject as part of our general plan issue.
23 And I see a council of thinking that we can maybe get
24 there. But not from our regulatory point of view. We are
25 going at it from a market point of view. If we can make

1 it attractive, useful, and cost effective, people will use
2 it. And then we can make it part of our requirement. But
3 we have to have the infrastructure ready to do that. And
4 we don't right now.

5 MEMBER PEACE: And then also I noticed you have a
6 buy recycle policy, which is good. And I'm going to ask
7 this question. It's not of you; I ask it of everyone.
8 That you buy the recycled content paper and you buy the
9 printer cartridges.

10 And I just encourage you to look further to buy
11 the recycled paint when you paint your city buildings, buy
12 the refined oil, and recyclable air filters for your city
13 vehicles. Just go a little bit beyond --

14 MR. RIGGE: Walk the walk.

15 MEMBER PEACE: That's right.

16 Those are my only questions. Thank you.

17 MR. RIGGE: Thank you very much.

18 CHAIRPERSON MULÉ: Thank you.

19 Any other questions for Duane or for staff?

20 Commissioner Danzinger?

21 MEMBER DANZINGER: Duane, I will ask -- one of the
22 questions offered by Board member Chesbro was, is there a
23 C&D operation? Maybe I missed this; you may have
24 mentioned it in subsequent discussion. But is there a C&D
25 operation in the regional agency area?

1 MR. RIGGE: No.

2 MEMBER DANZINGER: So there's nothing up there at
3 all?

4 MR. RIGGE: There's a composting capability that
5 the Waste Authority has. The composting -- the C&D
6 capability is a private operation near the city of Mul
7 Lake out there on east -- north corner. Near Arcadia.
8 You know the topography of Humboldt County better. That's
9 the only full-fledged C&D and it's mostly oriented toward
10 concrete.

11 MEMBER DANZINGER: Okay. Thanks. One quick
12 question of staff. It's a process question. I just want
13 to make sure.

14 So ending -- taking someone off a compliance order
15 is not tied directly to having a definitive current
16 diversion rate, because I notice in the item, what we have
17 are preliminary diversion rates running through '05 and
18 they are currently in the process of developing
19 '06 diversion rates.

20 So you obviously don't need to have a definitive
21 rate that's current, or current as of -- it's final as
22 opposed to preliminary?

23 DIVISION CHIEF MORGAN: Right. Cara Morgan. I'll
24 speak and then Elliot may want to pipe in.

25 When the jurisdiction is put on a compliance

1 order, it becomes program-based. So that compliance order
2 weighs out particular programs that they are required to
3 implement. That then becomes the focus of the compliance
4 order so that we're able to bring, when they have
5 fulfilled that compliance order and implemented all of
6 those programs laid out in that local assistance plan,
7 that's when we're able to bring them forward. So it's
8 outside of the biennial review cycle.

9 MEMBER DANZINGER: In essence, you would have to
10 make informally the same thing as a good faith effort --

11 DIVISION CHIEF MORGAN: Correct. Correct.

12 MEMBER DANZINGER: -- determination.

13 DIVISION CHIEF MORGAN: Correct.

14 MEMBER DANZINGER: Okay.

15 CHAIRPERSON MULÉ: Any more questions?

16 MEMBER PEACE: Cara, we didn't -- in their plan
17 that we put together, we didn't require any of these
18 things to be mandatory or workable at this point?

19 DIVISION CHIEF MORGAN: You know, when we laid out
20 the local assistance plan, we put in that we would
21 evaluate the mandatory -- you know, look at that. But we
22 have been so pleased with the increase in participation,
23 the voluntary route, that's how we kind of designed the
24 local assistance plan. And we do not -- as you know, in
25 collaboration with the jurisdiction to see what works best

1 for them. And in that case, by implementing the voluntary
2 greenwaste program, that was what was required. But we
3 also included an evaluation of, you know, down the road
4 looking at mandatory. And as Duane said, they are doing
5 that and implementing that part of what we laid out in the
6 local assistance plan. And they are making great progress
7 in that area.

8 CHAIRPERSON MULÉ: Before we make a motion, I just
9 want to thank staff for all of your work on this.

10 Board Member Peace and I were here when, as you
11 know, Duane, when we went through this whole exercise and
12 it wasn't pleasant for us either, I just want you to know.
13 But we felt it was necessary to get the city and your
14 hauler and get everybody working together so that you can
15 be in compliance.

16 And it's a pleasure for me to be here today to
17 share this, hopefully, depending on the vote, the end of
18 this compliance order.

19 So with that, I would like to thank everybody for
20 a job well done.

21 And with that, do I have a motion?

22 MEMBER PEACE: I would like to move Resolution
23 2008-1.

24 MEMBER DANZINGER: Second.

25 CHAIRPERSON MULÉ: It's moved by Member Peace;

1 seconded by Member Danzinger.

2 And we'll substitute the previous roll.

3 And we will put that on consent. Again, thank you
4 very much for being here.

5 MEMBER PEACE: Again, I just want to thank
6 Fortuna. With the help of our staff, you did it and we're
7 proud of you.

8 CHAIRPERSON MULÉ: Okay. Our final item of the
9 day is Committee Item I, Board Agenda Item 8.

10 PROGRAM DIRECTOR RAUH: Yes, thank you, Madam
11 Chair.

12 Item 8 is Consideration of Adoption for Emergency
13 Regulations for the Issuance of Temporary Solid Waste
14 Facilities Permits for Solid Waste Transfer or Processing
15 Stations and Composting Facilities Pursuant to AB 1473.

16 As you know, several weeks ago, staff provided a
17 set of draft regulations comporting with this statute. We
18 made an attempt with those regulations to reach out to all
19 of the interested parties that participated in either the
20 legislation hearings or who we felt were interested in
21 this particular issue.

22 On the 9th of this month, we heard a formal public
23 workshop in which we discussed the regulations with a
24 number of interested parties and provided a revised set of
25 regulations. Unfortunately, with very little time for

1 your review, but they are available for those in the
2 audience, in the back of the room, accompanied with a
3 summary of the comments from that workshop and our
4 proposed resolution to those comments.

5 Today to present the regulations under the
6 development process, Mihoyo Fuji is here to make that
7 presentation; and Mark de Bie also to cover some of the
8 comments that we received so far on the draft regulations.
9 And our proposals to make changes to the regulations in
10 accordance with those comments.

11 So please.

12 MS. FUJI: Good morning -- good afternoon, Madam
13 Chair and Members.

14 (Thereupon an overhead presentation was
15 presented as follows.)

16 MS. FUJI: AB 1473, enacted in September 2007,
17 requires the Board to adopt emergency regulations that
18 would authorize an enforcement agency, upon the Board's
19 concurrence, to issue a temporary solid waste facilities
20 permit to a person operating a transfer or processing
21 station or composting facility, which, as of January 1,
22 2008, was required under the Integrated Waste Management
23 Act to have a solid waste facilities permit but for which
24 the permit has not been obtained.

25 The proposed regulations add a new article 3.1.1

1 to Chapter 5, Division 7, of Title 14. The regulations
2 include the scope, applicability, requirements, and
3 application procedure as to how to obtain a temporary
4 solid waste facilities permit.

5 AB 1473 requires the Board to file the regulations
6 with Office of Administrative Law on or before March 1,
7 2008, which is less than 8 weeks away. The regulations
8 will sunset on July 1, 2010.

9 If a transfer or processing or composting facility
10 is currently operating without an appropriate solid waste
11 facilities permit, then the operator can apply for a
12 temporary permit following the requirements set forth in
13 this article. Whether a facility is operating with or
14 without an appropriate permit can be determined based on
15 the existing solid waste regulations.

16 If a facility is determined to be operating
17 without an appropriate permit, then an operator has a
18 choice of either, one, pursuing permanent permit; two,
19 pursuing temporary permit; or, three, ceasing operations.
20 If an operator chooses to take no actions towards
21 obtaining a permit or ceasing operations within 60 days of
22 the effective date of the regulations, then enforcement
23 actions may be pursued.

24 A temporary permit can only be issued to the
25 facility that has been in continuous operations and for

1 operations that have been conducted in the calendar year
2 2007. In addition, all operators that obtain a temporary
3 permit must obtain their permanent permit by June 30,
4 2010.

5 The application process is generally similar to
6 the process for existing registration and standardized
7 permit. The local enforcement agency is responsible for
8 identifying and notifying potentially eligible facilities,
9 and then the operator has 60 days from the effective date
10 of the regulations to submit an application to LEA.

11 The slide describes the maximum timeline for
12 application process. But as Ted mentioned, the draft
13 regulation text was changed, and this timeline was changed
14 accordingly. So just remember that it's reflecting the
15 change.

16 Once the regulations become effective, the
17 operator has 60 days from the effective date to submit an
18 application to the LEA. Then the LEA has 20 days to review
19 the application and to determine if it's complete and
20 correct. If any deficiencies are found, LEA can
21 communicate with the operator and then the operator can
22 rectify and re-submit a complete and correct application
23 within the next ten days. The LEA has another five days
24 to determine that the application is complete and correct.
25 Then next the LEA has 15 days to inspect the facility and

1 determine if the facility can operate in compliance with
2 state minimum standards. And if everything is okay, the
3 LEA will submit the application package to the Board, and
4 the Board then has 15 days to obtain either executive
5 director's concurrence or objection.

6 Once the determination is made by the executive
7 director, the Board shall notify the LEA within 7 days.
8 The LEA then has 5 days to issue a permit or notify the
9 operator of the Board's decision.

10 Staff received comments from approximately 10
11 stakeholders either through the workshop held on January
12 9th or via letters, emails, or phone calls. Based on the
13 input, staff proposes changes to the draft regulations.
14 Mark de Bie will discuss the comments received and our
15 approach regarding those comments.

16 DIVISION CHIEF DE BIE: Thank you, Mihoyo. Mark
17 de Bie. I'm kind of sitting in for Kevin Taylor who's
18 been shepherding this effort along with Mihoyo and Sue
19 O'Leary and Michael Bledsoe with the legal office. Kevin
20 can't be with us today. He had a death in his extended
21 family and so he's dealing with that today. So it falls
22 to me to review some of the last-minute change. And as
23 Ted indicated, we apologize for doing this.

24 Our hope for today is to continue the dialogue
25 relative to these regulations so we can meet that

1 March 1st -- actually, February 29th date, because I think
2 the 1st is a Saturday, so we can comply with the statutes.

3 So our hope today is to share the changes that
4 we've made to the regs. Before that, certainly, talk a
5 little bit about how we're approaching the regs and then
6 talk about the changes that we've made to the regs.

7 And then as needed, as directed by the committee,
8 continue to have that dialogue at the Board meeting next
9 week in hopes that we can get your approval and get ahead
10 of the time frame and in terms of submittal to the Office
11 of Administrative Law. But lacking that, we certainly
12 will be prepared to continue to work with you and the
13 stakeholders to make refinements so that we can come back
14 in February and hopefully still meet that time frame.

15 We really need, as staff, to have the issues
16 boiled down to just a few that we're able to manage in
17 order to meet that. If we're still debating a number of
18 issues into February, it would be very difficult to make
19 revisions and allow for continued access and input from
20 all the interested parties.

21 So with that, just some initial comments about how
22 we approached the development of these regulations. We
23 really tried to stay with what is known, so we've cut and
24 pasted a lot of existing regulations and placed it all in
25 one unit, one article, so that it can be found and people

1 don't have to skip around the regulations to find the
2 appropriate regulations.

3 So in doing that, we utilized existing application
4 forms that are applicable to the types of facilities that
5 are associated with this legislation, transfer stations,
6 C&D sites, compost sites, chip and grind sites all fall
7 within the classification of the bill.

8 We utilized a process that's a hybrid. Since the
9 legislation required the Board to have some involvement in
10 terms of concurrence, we couldn't utilize the registration
11 permit process as it exists because that's an LEA-only
12 process; the Board isn't involved with that. So we looked
13 to the standardized permit process in terms of time frames
14 and type of information that's required and gleaned some
15 aspects from that process.

16 So what we have is a regulation that includes
17 aspects of the full permit process, registration permit
18 process, standardized permit process. It's as streamlined
19 as we think we can make it, from a staff point of view,
20 and still be consistent with all of the applicable
21 statutes. And it still make sense to both the applicants
22 and the LEAs that need to work through this.

23 So with that, I would like to draw your attention
24 to the one-page document in which staff tried to summarize
25 the issues that we collected, as Mihoyo indicated, both

1 from the workshop but from letters, telephone calls,
2 e-mails that we received, after the regs were posted back
3 in late December.

4 So this handout is in the back of the room as well
5 as the proposed revisions to the regulations. And as I go
6 through, if you have questions, please ask and we can take
7 care of them as we go through.

8 So number 1, we received a number of comments
9 relative to the applicability of the regs and how they
10 play into recycling centers and facilities that are
11 handling large quantities or recyclable materials, but
12 because maybe they are handling a single stream or they
13 are starting to get recycled materials from multifamily
14 dwellings, or whatever the situations is, they may be
15 pushing the three-part test that kicks them into being
16 regulated as a solid waste facility and no longer as a
17 recycling facility.

18 And so one of the observations was, could we sort
19 of name or view this permit in a way that recognizes the
20 fact that many of these facilities, existing facilities,
21 are basically handling recyclable materials.

22 Staff considered that and looked at the
23 suggestion, which was to include terms like recycled
24 material and that sort of thing in the title of the
25 permit. Thought that a better approach was, again, to go

1 back to the way we approached these regs in a general way
2 and to utilize terms and phraseology that was already
3 known to LEAs. And so we did remove the connotation to --
4 that may exist in referencing these permits as solid waste
5 facility permits, and remove that term.

6 We did add in recyclable material and those sorts
7 of preferences, but we did distill it down to refer to
8 temporary registration permit, which is a term that we've
9 used, in the past, relative to when C&D sites were first
10 coming into the regulatory universe, and there was sort of
11 a grace period or a grandfathering period. We utilized
12 that term in that situation.

13 One of the reasons why we didn't want to put
14 recycling in the title is we were concerned about at least
15 the perception that the Board was entered into regulating
16 recycling activities, which by statute we're not allowed
17 to do; thus, the three-part test to tell us when it's
18 recycling and when it isn't.

19 So to put recycling in the title of a permit
20 seemed to maybe at least send a perception to be something
21 we want to steer away from.

22 The second issue was relative to CEQA. We had
23 inserted some reference to the LEA making a finding
24 relative to CEQA. And then the executive director
25 determining whether the LEA had made that finding.

1 We got a lot of questions about whether that was
2 possible, given the time frame, how that played into some
3 local issues, how it played into sites that may have had
4 some CEQA review but were not operating to their fullest
5 scope within a project description in CEQA. Lots of
6 different points of view relative to the CEQA compliance
7 issue.

8 Staff took a step back, looked at the process that
9 we were proposing, compared it to, again, the existing
10 registration permit process, which it has been viewed and
11 continues to be viewed as basically a ministerial process
12 in that the LEA nor the Board -- well, the LEA. The Board
13 has no role in registration permits. But the LEA cannot
14 condition, cannot affect, that proposal in the
15 registration level.

16 We realize that basically we had almost all of the
17 same elements that are in a temporary or in a registration
18 permit process and then sort of concluded that the rules
19 relative to CEQA would definitely apply to this temporary
20 permit. So once we realized that, we decided to pull out
21 any reference to CEQA findings, either for the LEA as well
22 as the executive director. So that's one of the major
23 changes other than the name of the permit so far, is that
24 we've pulled out reference to needing to make any CEQA
25 findings to that.

1 That then accepts that these are indeed a
2 ministerial approval on behalf of the LEA as well as the
3 Board.

4 MEMBER PEACE: Mark, can I ask a question?

5 DIVISION CHIEF DE BIE: Certainly yes.

6 MEMBER PEACE: The name change, when you change it
7 to temporary registration permit. Most of these
8 facilities then that are going to need to get a permit
9 that don't have a permit now, they will all be able to
10 fall within the registration tier, and these are going to
11 be taking less than the hundred tons a day for the
12 transfer processing, less than 175 for the C&D. If they
13 take more than that, then they wouldn't be in the
14 registration category, would they?

15 DIVISION CHIEF DE BIE: Right. Can see where
16 using the term "registration" could develop some confusion
17 about relative to what that means in the tiering. And
18 it's true that you can be -- for a transfer station, if
19 you are under a hundred tons per day, you're in a
20 registration tier. I think there's adequate language.
21 And maybe Michael can add to this, but I think there's
22 adequate language in the regs that clarify that it's
23 basically, if you need a solid waste facility permit, then
24 these regs apply to you. And if you don't have one
25 already, they apply to you.

1 MEMBER PEACE: If you take more than a hundred
2 tons per day --

3 DIVISION CHIEF DE BIE: They wouldn't be allowed
4 to --

5 MEMBER PEACE: Registration while you get the
6 larger ones.

7 DIVISION CHIEF DE BIE: Yes. And so they would be
8 allowed to do whatever they were found to be doing when
9 the bill became effective and referred to the time frame
10 that they were effective. So if it happens to be over a
11 hundred, they would still be allowed to take over a
12 hundred tons under this temporary registration permit.

13 MEMBER PEACE: So the LEA will tell them, "Okay.
14 You are taking more. You need more than a registration
15 permit. You need a full permit. And we're going to give
16 you X amount of time while you get the CEQA and everything
17 else."

18 DIVISION CHIEF DE BIE: Right. I think staff
19 anticipates that what the operator provides relative to
20 the main parameters of their operation in terms of types
21 of materials, volume of material, how they are handling
22 it, would be pretty consistent in terms of the description
23 they offer for the temporary registration permit, and then
24 what they end up asking for with the full permit at a
25 later date.

1 Certainly, in between, they could indicate that
2 they want to expand their operation and go beyond the
3 scope. That may trigger CEQA at that time when they go
4 for the full permit.

5 MEMBER PEACE: Okay. Thank you.

6 DIVISION CHIEF DE BIE: There were also concerns
7 about the way the process had been outlined in terms of
8 time frames and decisions needing to be made by the LEA.
9 And it was apparent to the stakeholders that if an
10 applicant provided an application, say, on the 59th day of
11 that 60-day period, then the LEA reviewed it and found
12 that it wasn't complete and correct and rejected the
13 application, then they were dead in the water; they had no
14 options to negotiate or fix or amend the application. And
15 that is a true assessment in terms of how we created the
16 regulation and flow.

17 And so we adjusted the regulations to still allow
18 a 60-day time frame for an application. The 60-day is
19 embedded in the bill and we wanted to be true to that.
20 But then allow the LEA an opportunity to do an initial
21 review, making an initial finding, communicate that to the
22 operator, and then allow them time to amend the
23 application before the LEA is required to make a final
24 determination in terms of acceptance and rejection on
25 that.

1 So that -- as Mihoyo indicated on the slide, we've
2 gone from a 60-30-day process to a 60-30 and then a 10-day
3 process. We poled several LEAs, certainly ones that were
4 involved in the workshop and a few other LEAs to ask if 20
5 days was an adequate time frame. They said, "Hey, if you
6 are pulling out CEQA review requirements, then, yes, we
7 can make that work."

8 The level of information coming to the LEA that
9 needs to be developed by the operator is much less than
10 would be required for a full permit for this temporary
11 permit. So there's fewer items to review and analyze too.
12 So that factors in.

13 Certainly, if the operator doesn't wait for the
14 59th day, they can send drafts and have additional
15 communication during that 60-day period, which could help
16 the situation too.

17 So those were the main comments and observations
18 shared with staff that resulted in edits and amendments to
19 the regulations. We also did find some need by staff to
20 clarify a few things and make some edits that the legal
21 office offered to us. So the version that we provided to
22 you -- I believe it ended up being this morning, and we
23 apologize for that -- has all of the proposed edits
24 relative to the regs. I just want to run very quickly
25 through some other observations and indicate why we didn't

1 factor them into the changes. And I will be really quick
2 on these.

3 There was a question about, does staff know how
4 many sites are out there? We are aware of maybe four or
5 five that may or may not be under this. It depends on how
6 they are evaluated and what the details are. We have
7 heard anecdotally, there may be as many as 50 sites out
8 there. And when we did an assessment for the budget
9 change proposal, that's the number that we used as a worst
10 case scenario.

11 Another question was the applicability relative to
12 a recycling center that's been out there forever but may
13 have changed or evolved over time and now they are more of
14 a -- not meeting the three-part test, whether these regs
15 would apply to them. And yes, they would. If they are
16 failing the three-part test, they would apply.

17 Some questions about how this temporary
18 registration permit process plays into local land use.
19 And it plays in the same way as our regular permit process
20 in that they are separate independent processes, and they
21 can continue on, independent from each other. One does
22 not depend on the other.

23 Some questions about why we chose to use the full
24 solid waste facilities permit application form as opposed
25 to creating some other form, the main reason was, again,

1 this is a known form. People are used to using it. It's
2 a form that's applicable to both transfer station and
3 compostable material handling facilities whereas the
4 current registration permit form is only applicable to
5 transfer stations. So it's not -- does not require
6 information relative to the compostable materials.

7 And the other reason that staff indicated is,
8 eventually, they will be needing to use that same form for
9 the full permit if they qualify, for one, so it's a good
10 practice opportunity in filling out the form.

11 Some commenters indicated they hadn't had adequate
12 time to review the regs. They have been out since late
13 December. It is an emergency reg package. It goes very
14 quickly. We did offer the workshop which is not required
15 as part of the process, but we felt it was a good idea to
16 do and we did get a lot of comments.

17 As I indicated initially, if there's still issues
18 that need to be discussed, we can roll into February. But
19 we want to make sure that we have all of the issues
20 identified so that we can be -- have greater assurance
21 that we can get a complete package and product done in
22 February.

23 And then there was a small question about the use
24 of mulch in one of the definitions. And that's required
25 to be there because there is such a thing as C&D mulch,

1 which is different than compostable material. It's wood
2 chips that don't compost. So you need to keep that
3 turning.

4 So that's staff's presentation. What we're hoping
5 is, again, to continue the dialogue, both with the
6 committee and other Board members as well as stakeholders
7 so that we can be sure that we're hitting the mark. And
8 certainly, staff would entertain being able to work out
9 any issues between now and the Board meeting and with
10 hopes that we can finish up the process there. But we'll
11 seek your direction on how you want to proceed from today.

12 CHAIRPERSON MULÉ: Okay. Thank you, Mark.

13 Let's move forward. We have a couple of speakers
14 here. So I want to get them on the record first.

15 First is Kelly Astor.

16 MR. ASTOR: Madam Chair and Members.

17 Thank you for this opportunity to address you on
18 this reg package. I appreciate Mr. de Bie's report and
19 his invitation to continue the dialogue. It may not come
20 as a complete surprise to some of you that the California
21 Refuse Removal Council has some concerns with the regs.

22 It starts with the fact that we were not enamored
23 with the bill. I understand that part's done. So -- but
24 that does -- that overlay's important as you assess some
25 of the remarks we want to make here in connection with the

1 reg package itself. And I understand time is short. But
2 I'm hoping that in spite of that particular pressure, we
3 can still get to the right outcome here.

4 I have a couple of questions and a couple of
5 general comments regarding the regs themselves.

6 I had the misfortune of being involved in that
7 legislation as it developed.

8 The purpose of the bill, I was told, and,
9 therefore, I guess these regulations, is that solid waste
10 handling was being done at facilities that were not fully
11 permitted. The intent of AB 1437 was, we were told, to
12 give LEAs and the Board the ability to regulate these
13 facilities as though they were fully permitted until they
14 got fully permitted. And to that extent, you know, we're
15 on board.

16 Absent the legislation, the only power the Board
17 has is to issue a cease and desist order through its LEAs
18 to those facilities that exceeded the 10 percent residual
19 and 1 percent adjustable thresholds by reason of their
20 failure to hold a full permit.

21 If that's correct, and that's my understanding as
22 to what led to a lot of this, then I am confused and a
23 little bit concerned with regard to that registration
24 label that's been assigned to these permits. If we're
25 going to regulate the facilities that should carry a full

1 permit and don't yet, and if the general objective here is
2 to treat them like they are fully permitted by submitting
3 them to limitations on tonnage, operating hours, frequency
4 of inspections, and so forth, and we're doing all this
5 because they are over the 10 and 1 thresholds, and they
6 are therefore handling the solid waste, then let's call it
7 what it is, a temporary solid waste permit, not a
8 registration permit.

9 I'm not sure what the downside is to the label,
10 but every time I don't understand something, that's a red
11 flag in my humble opinion.

12 The second issue we have at CRRC concerns what we
13 call grandfathering. And we were grateful that the
14 legislation did include a grandfather feature. The
15 regulations before you provide the increases as to the
16 amount of the activity that's occurring prior. We like
17 that. Thank you, staff.

18 It also says there can't be any change to the
19 nature of the activity undertaken prior to that time.
20 Again, good job. Thank you, staff.

21 We would ask that you add the following, in
22 addition to those. No change in ownership. This is not
23 to be a transferable permit, we think, because that kind
24 of defeats some of the justification for the reg package.
25 Secondly, no change in the address or location. The fact

1 that I was doing my illegal activity over here and now I'm
2 getting amnesty doesn't mean I can move it over here. And
3 this kind of follows, I think, the logic of what staff
4 already has, which is, we're going to take the status quo
5 and move forward with that. So we respectfully urge that
6 you give consideration drawing those features in.

7 More critically though than even that, we think
8 the regulations need some provision about the Board
9 verifying what the applicant did in 2007. I claim a lot
10 of things that I have done that I really haven't done, but
11 it's so far back nobody can prove me wrong. That was a
12 joke. This is the part where you laugh.

13 These people -- the good actors, I'm not worried
14 about. And I'm sure there are some good folks out there
15 who are literally just kind of transitioning to single
16 stream and all of a sudden they are 11 instead of 10. My
17 comments, to the extent they seem jaded or cynical, are
18 not about those folks. They are about the bad guys, like
19 the Crippen folks and other people, who are the subject of
20 these headlines, when some unpermitted facility blows up
21 or catches fire or even short of that, just unfairly
22 competes with my clients, who have gone out, anticipated
23 things like single stream might possibly occur, gone
24 through the rigmarole of getting a full permit over,
25 sometimes, some very significant objection from neighbors,

1 from our good friend at the AQMD and everybody else. It's
2 the bad actors that I think require some of this
3 additional input.

4 So just because someone says, "I was only handling
5 really clean stuff," and only 500 -- or pardon me. I
6 think they would overstate, I think, what they were doing
7 to get the advantage I'm about to mention. They could
8 claim they were doing 1500 tons per day or something else,
9 that they were operating 24/7, all this other stuff. And
10 we're just going to -- to whatever extent, we would just
11 roll them in based on what they say they were doing. And
12 that qualifies them for a status quo determination on a
13 go-forward basis under the temporary permit. That's a
14 problem.

15 Now, I'm not sure how you address my concern.
16 It's a lot easier just to mention the concern. But there
17 has to be some basis for verifying what they were doing.
18 And if that slows them down in terms of this process,
19 tough luck. You didn't get the full permit you were
20 supposed to have in the first place. We're already here
21 under special legislation just to try to address what your
22 failure what the law already required of you.

23 So I would be happy to work with you and my
24 obligation, or the CRRC's, more particularly, to your
25 staff, is to try to come up with some ideas about how that

1 might happen. But to the extent you have other
2 stakeholder participation opportunities, we will
3 participate. If we need to write something, we'll try to
4 do that. But at least bookmark that issue today. Let's
5 not take them at their word. If we could take them at
6 their word, they would be carrying full permits.

7 What else do I got here? In terms of the proof
8 that is submitted, to the extent we can't independently
9 verify it or to the extent our own verification process is
10 being followed, I would think some standard, like
11 substantial evidence, that would be satisfactory to a
12 reasonable person. There's a lot of language like that in
13 a whole bunch of regs and statutes that are out there now.

14 In fact, let's just put in there, if it satisfies
15 the Board Chair, then that will be enough for Kelly Astor.

16 BOARD CHAIRPERSON BROWN: I just said some legal
17 mumbo jumbo. There's some terminology that you can use.

18 MR. ASTOR: Well, "substantial and verifiable" is
19 what I wrote down in my notes. So this verification
20 issue, to give it one word, is something that I think is
21 more important than anything else I will tell you today.

22 Section 18218.3C speaks to the stay of the effect
23 of the cease and desist order upon receipt of the
24 application.

25 I understand there are circumstances where you

1 might want a stay invoked. But I'm under the impression
2 cease and desist orders are issued for a variety of
3 reasons. And the mere fact that I submitted an
4 application should in and of itself be enough to stay
5 enforcement or implementation of a cease and desist order
6 unless the staff determines everything else is kosher.

7 And maybe that's implicit in the regs, but I would
8 urge you to consider making it explicit. Because if there
9 are other bases for having a cease and desist order
10 issued, then someone shouldn't be able to call olly olly
11 oxen free by simply submitting an application for a
12 temporary permit.

13 On page 6, section 1A218.7G speaks to the appeal
14 of the denial of an application. In the event of appeal,
15 it basically says that the denial is suspended, and this
16 is an issue similar to the one I just identified.

17 I'm not sure what the answer is, but I think there
18 may be a problem because it doesn't then tell us, what is
19 the current status of the operator's right to continue
20 operating once there's been a suspension of his
21 application? Is he -- how is he regulated and by whom? I
22 think I would like an answer to that or at least someone
23 looking at it.

24 The last thing I will give you, going on to
25 something else -- the second to last thing is what I call

1 the Main Street example. And I'm not sure how you can
2 address this one either. This comes from the board of
3 directors.

4 Suppose you have the formerly illegal, now amnesty
5 facility that's handling -- that claims to handle
6 2000 tons per day of material. And down the street, you
7 got the fully permitted guy. And he's only limited to
8 1500 tons per day. There's something wrong, perhaps, in
9 the idea that this person who applied for and obtained a
10 permit for 1500 didn't ask for more because it would have
11 been politically infeasible, is now in competition with
12 his neighbor, the one with the record, okay, who's going
13 to walk in to a higher tonnage, different operating hour,
14 kind of scenario. Because remember, when we were
15 negotiating the legislation last year we talked about,
16 well, if you are going to be in this window where you are
17 going to be given amnesty, you can't go over ten percent
18 by any more than a fraction, and you can't go over 1
19 percent by any more than a fraction.

20 And the regs right now don't do any of that. As
21 far as I interpret these regulations, subject only to
22 maybe the verification issue I raised before, somebody
23 will come in and have some really nasty dirty stuff,
24 because they were doing it before.

25 Well, that's not what you intended with the

1 grandfather I don't think. So the legislation itself
2 certainly doesn't prohibit imposing caps on how far you
3 can exceed putrescible or residual standards. I would
4 respectfully urge that you roll something out of that
5 thing. It's not going to make everybody happy. But right
6 now, you want to talk loopholes, that's a very large one
7 in the judgment of CRRC.

8 If there are caps imposed and there's verification
9 of what these people were doing before, then the other guy
10 on Main Street will have less of a concern that he's just
11 been circumvented. And he's going to wish he had been
12 in -- not wish he had been an illegal just to get the
13 higher tonnage benefit.

14 Last, I'm not a CEQA guy. People think I am
15 because I carry a law license. I'm not. I know a little
16 bit about it. Because any time somebody crosses out a
17 CEQA requirement, I cheer unless my guys already have to
18 comply with CEQA. And now there's a cross-out here and
19 somebody else is not going to. Suddenly, I'm the foremost
20 environmentalist. And I want to make sure that we're all
21 playing by the same set of rules.

22 So others will speak to this who are more
23 informed. But the idea that there's not going to be a
24 complete, full determination by Waste Board staff, that
25 there's been CEQA compliance with these guys that are

1 coming in the side door, that's bad news just on its face.
2 And I would respectfully urge that you give that more
3 thought, even though I appreciate avoiding that step does
4 seem to streamline the process a little bit.

5 Thank you very much.

6 CHAIRPERSON MULÉ: Thank you.

7 Next, we have Mark Aprea.

8 MR. APREA: Madam Chair, Members of the Committee,
9 Members of the Board.

10 I'm Mark Aprea. I'm here on behalf of Republic
11 Services.

12 I want to go to the definitions section,
13 specifically page 2, Item D, eligible facility. And it
14 says it needs a solid waste transfer or processing station
15 or compost facility that has been in continuous operation
16 since January 1 or earlier for which a solid waste
17 facilities permit issued prior -- pursuant to the acting
18 board regulations is required as of January 1, '08, but
19 has not yet been issued by the enforcement agency having
20 jurisdiction.

21 In essence, the facilities that we're dealing with
22 are twofold: One, those who have been ignorant of the
23 law; or those who have purposely sought to avoid it. And
24 my comments are really aimed at the facility operators.
25 And again, some of them, as Mr. Astor indicated, may be

1 very well intentioned and have by accident or
2 circumstances found themselves in a particular situation.

3 But nonetheless, we're dealing with folks who
4 should have been complying with the law but have not. And
5 now we need to look at that universe of folks and decide
6 how we're going to, if you would, bridge them from their
7 unlawful status to a lawful status.

8 And I want to reiterate the point that Kelly Astor
9 made, that these folks should be required to have some way
10 of verifying the volumes that they were operating at. And
11 quite frankly, any business will be keeping some kind of
12 record, and the volume should be relatively easily
13 determined; and if not, I think that there are real issues
14 in terms of whether or not the LEA can proceed forward.

15 But in any event, I think that the regs should be
16 explicit as to showing what was occurring prior to the
17 coming into compliance with the law.

18 Secondly is that the temporary regs provide for
19 the same frequency of enforcement as a lawful operator.
20 Clearly, whether they have purposely avoided the law or
21 have been ignorant of the law, they require a lot more
22 help than a lawful operator who has affirmatively come
23 forward, submitted themselves to the permit requirements,
24 and has been operating forthwith.

25 So I would urge that there be greater frequency of

1 permitting and recognizing that, you know, this is a
2 burden on the LEA and on the Waste Board, that in the
3 event that there are costs that are weighing in terms of
4 your consideration of that, is that the permit applicant
5 be paying for that more frequent inspection.

6 Again, while we are not happy with the statute,
7 I'm not here to revisit those issues. I accept the views
8 of the legislature in this regard, but I want to find a
9 legitimate and balanced way of approaching this. So we
10 would urge that there be far more inspection of the
11 operator during this interim period, because we think that
12 their failure to act, whether purposeful or not, warrants
13 that additional attention.

14 Now I think that some will argue that because of
15 AB 32, that we ought not to interfere with anybody coming
16 into compliance or interfere with any kind of operation.
17 And I think that, you know, AB 32 is a lot of things. But
18 it shouldn't -- its mandate shouldn't be abused in terms
19 of what this Board does to enforce the environmental laws
20 that it's charged with.

21 And if you were to take the -- those that advocate
22 for, you know, letting everybody come into the marketplace
23 and let the regulations sort of slide as being secondary,
24 we would do a lot more harm to the environment over the
25 long term.

1 So in conclusion, I would just ask that this
2 committee and the Board look at verifying the volumes that
3 have been -- that are being represented by the applicant
4 and that there be greater verification and greater
5 inspection of the facilities during this interim period.

6 Thank you.

7 CHAIRPERSON MULÉ: Thank you, Mark.

8 Our next speaker is Chuck White.

9 MR. WHITE: Thank you, Madam Chair and Members of
10 the Committee, Members of the Board.

11 I'm here representing Waste Management. We are
12 here actually to support the regulation. We participated
13 in the workshop and we found the staff to be very
14 responsive to some of the issues we raised in that
15 workshop. And for the most part, although I have to admit
16 I haven't had a chances to fully digest every last change
17 in detail, it looks like our concerns were substantially
18 addressed and we really appreciate that.

19 I think the thing not to lose sight of, there's a
20 whole variety of reasons why facilities may find
21 themselves having to make access to this particular
22 regulation. A lot of the issues you've been hearing about
23 the last few minutes were fully discussed during the
24 course of the legislation, and this really was intended to
25 provide an opportunity for facilities, really, recycling

1 facilities, that have found themselves outside the
2 10 percent restriction, not because they wanted to be.
3 It's because the nature of the waste stream handling
4 practices have changed. And despite all efforts to stay
5 within that 10 percent, they found themselves out of
6 compliance.

7 These are not facilities that are handling mostly
8 solid waste; they are handling mostly recyclable
9 materials, 80, 90 percent recyclable materials, the vast
10 percentage of which is diverted and used beneficially.
11 And these facilities are more processing to remove that
12 last little bit of residual before these commodities can
13 be effectively recycled in the marketplace.

14 So this does provide a temporary opportunity for
15 these facilities to come into compliance. It doesn't mean
16 that this is the last step, by any means. Just means that
17 you are going to give a chance for these facilities to
18 come forward in good faith and say, "Okay. Here's a
19 situation that we want to come into compliance. Help us
20 come to a process by which we can fully get a permit."

21 And so we do support these regulations. We think
22 they are crafted well; they make sense. I would like to
23 have another day or two to go through it with a
24 fine-toothed comb, and if I have any further comments or
25 suggested changes, maybe make those before the Board acts

1 next week, if you do decide to do that.

2 But we would certainly encourage moving forward on
3 this and adopt this to provide these facilities a chance
4 to continue operating to provide the AB939 diversion
5 services that many jurisdictions come to rely on.

6 Thank you.

7 CHAIRPERSON MULÉ: Thank you, Chuck.

8 Our final speaker is Chuck Helget.

9 MR. HELGET: Good afternoon, Members of the
10 Committee and Chair. I'm Chuck Helget representing Allied
11 Waste. I will be painlessly brief.

12 I represent Allied Waste, as I said, and we have
13 operations across the state that have obtained appropriate
14 permits in compliance with your state laws, the state laws
15 and with your regulations.

16 The operators of those Allied facilities are
17 concerned that these regulations should not easily allow
18 competitors who have not complied with the law to be
19 rewarded for their noncompliance. And therefore, we are
20 in support here of the comments previously made by
21 Mr. Astor and Mr. Aprea, particularly regarding, again,
22 limiting the ability of those facilities to sell their
23 operations, not allow those facilities to randomly move
24 during this period of time. And there needs to be some
25 verification of the level of their operations in 2007 so

1 that there's not just a random number snatched out of the
2 air. We would certainly like that opportunity and some of
3 our facilities as well. But we realize that that's not
4 feasible. Those are my comments.

5 Thank you.

6 CHAIRPERSON MULÉ: Thank you, Chuck.

7 Comments, questions from Board members?

8 Board Member Petersen?

9 BOARD MEMBER PETERSEN: First of all, I would like
10 to thank the staff for doing a great job on this and the
11 speedy way it was done. I also appreciate all the
12 comments that were made here today and all those being
13 taken into consideration to move forward on the emergency
14 regs.

15 But I just think as the world changes in
16 recycling, this is what's happened. And now we got to fix
17 this. Recycling is a living thing. So I'm glad everybody
18 got their thinking caps on and everybody's getting along
19 to make this happen. So good luck.

20 And thank you, staff, very much.

21 CHAIRPERSON MULÉ: Chair Brown?

22 BOARD CHAIRPERSON BROWN: Well, I have to agree.
23 Thank you all very much for all the hard work and doing
24 this on a time frame.

25 I do have an interest in you looking at some of

1 the verification information that was requested because it
2 is to create a level playing field. It isn't to give an
3 added advantage. The world does change, but we certainly
4 don't want to reward people who are evading current law.
5 No bad guys.

6 But anyway, thank you all for your comments. I
7 look forward to next week.

8 CHAIRPERSON MULÉ: Thank you, Madam Chair.

9 Board Member Peace?

10 MEMBER PEACE: I too am concerned with some of the
11 comments that Kelly Astor made and Mark Aprea. I think
12 they have some legitimate concerns and I hope that we will
13 look at some of those things. I know Mr. Astor said
14 something about the name change. Why did we change it
15 from, you know, full permit to calling it registration.

16 If we didn't do that, what consequences are there?
17 I guess I'm not sure really -- what's the downside of not
18 calling it a registration permit?

19 DIVISION CHIEF DE BIE: I guess the only downside
20 would be, there's not -- I mean, it will vary. But the
21 process is very much like a registration permit so having
22 that name kind of makes sense that that's what they are
23 working on. You are not working on the full solid waste
24 facilities permit. That's going to come later when you
25 apply for your permanent permit.

1 MEMBER PEACE: Isn't that why we're calling it
2 temporary?

3 DIVISION CHIEF DE BIE: Temporary is, it's some
4 good for two years once they are in. So it's not the
5 permit you get to live with forever. So staff feel a need
6 to recognize the fact that it's an interim, temporary,
7 kind of thing.

8 Now, initially, what we were calling it was a
9 temporary solid waste permit. And Chuck White indicated
10 another approach. And we kind of compromised in between
11 what he was recommending and what we started with. But we
12 can certainly go back and --

13 BOARD CHAIRPERSON BROWN: Let me ask a question,
14 because I think there was some dialogue during the process
15 during the development of the statute and the legislation.

16 Are we trying to look at capturing a greater
17 universe and maybe having an opportunity to look at
18 facilities that maybe fall on the edge of maintaining
19 their status as a recycling facility, whether they may or
20 may not pass the three-part test in the future? Are we
21 trying to anticipate changes where they would be able to
22 have this temporary permit, where we would be able to go
23 in and inspect their operations during this two-year
24 period?

25 Because the only reason that I can see not naming

1 it a temporary full solid waste facilities permit is that
2 you are anticipating that there's people coming in that
3 may never have to apply. They just want to come in under
4 the umbrella of this time period. And whether we do --
5 I'm not saying one way or the other.

6 I'm just asking, is that what we're contemplating
7 and....

8 DIVISION CHIEF DE BIE: Yes. Thank you for
9 reminding me about that particular aspect of it.

10 Yes, there was some discussion that perhaps a
11 facility that may initially think they require a temporary
12 permit may end up not needing it because they changed
13 their operations and whatever. So at least for a period
14 of time, they are being labeled as a solid waste facility,
15 when they might turn out not being one. So that's a
16 downside on that aspect of it.

17 BOARD CHAIRPERSON BROWN: They would be required
18 to be inspected by the LEA during this temporary period,
19 so we would have full access to these facilities and we
20 would know more about them as opposed to a smaller
21 universe of people that know that they are not abiding by
22 current law and go through the process.

23 DIVISION CHIEF DE BIE: Yes. Exactly.

24 And I think staff is expecting that, you know, if
25 they do enter in the application process, and that would

1 be certainly an opportunity to work with the LEA in fine-
2 tuning how they are classified, how they work in or don't
3 work in. So that would be an opportunity.

4 But certainly, if they do go through and get this
5 temporary permit, you know, they would continue to be
6 evaluated and inspected. And there's an expectation that,
7 you know, there will be another application process.

8 So throughout that time period, there will be an
9 opportunity to fine-tune what these facilities are or
10 aren't. And if they don't end up needing to have a
11 facility permit, then they would, you know, drop out and
12 be able to continue as a recycling center.

13 MEMBER PEACE: I'm thinking -- to me, this is
14 confusing. You are calling it a temporary registration
15 permit, but it really isn't a registration permit. That,
16 to me, is confusing, especially when the 1473 says that, a
17 temporary solid waste facilities permit. I guess my gut
18 is telling me to go back to the way it's stated in the
19 bill.

20 MEMBER DANZINGER: Seems like more of a stretch.
21 It requires a lot more explanation to call it a
22 registration permit than just calling it what the law
23 seems to indicate. It should be....

24 DIVISION CHIEF DE BIE: If the committee would
25 like us to direct on the name of choice, we can insert

1 that in the regs.

2 CHAIRPERSON MULÉ: Well, I think you are hearing
3 from the committee, we would rather see it go back to the
4 original --

5 DIVISION CHIEF DE BIE: Temporary solid waste
6 facility permit.

7 CHAIRPERSON MULÉ: Yes. That's Item number one.

8 DIVISION CHIEF DE BIE: Thank you.

9 CHAIRPERSON MULÉ: Anything else, Board Member
10 Peace, before we move on?

11 MEMBER PEACE: No.

12 DIVISION CHIEF DE BIE: If I may, if there aren't
13 other questions, I can respond --

14 CHAIRPERSON MULÉ: We have several other
15 questions.

16 Board Member Danzinger?

17 MEMBER DANZINGER: Actually, I don't have any
18 questions.

19 I just want to say that, yeah, I think I agree
20 with most of the points that have been made by the
21 speakers today. I think more importantly, I can't detect
22 anything in the comments that have been made that run
23 counter to the intent or the letter of this law.

24 I mean, if there is anything, please point it out
25 to me, but I was listening to these comments saying, okay,

1 the thing on verification, the change in ownership, you
2 know, all these things, none of them seem to contradict
3 the intent of the law.

4 They might just be -- you know, they are probably
5 a little bit more substantial than calling them technical
6 cleanup, but it seems like some course correction here.

7 CHAIRPERSON MULÉ: Any other comments or
8 questions?

9 Board Member Chesbro?

10 Okay. I just have a few comments here.

11 First of all, I do agree with most of what Kelly
12 and Mark had to say, and Chuck Helget, regarding the
13 verification of information. I think that that's very,
14 very important for us to do that. How we do that, we need
15 to figure that out. But we do need to verify what is and
16 has gone on at that facility. That's critical. Because
17 we don't want them to get a permit or a temporary permit
18 for something more than what they are doing. It becomes a
19 fairness issue.

20 And to address Chuck White's issue, I feel there's
21 a big difference between a MRF that exceeds the three-part
22 test and another facility who is clearly and blatantly
23 violating the law. So there's a big difference there.
24 And I think that we're -- I hope that we're not giving a
25 pass to those facilities that are violating the law.

1 We do understand there's going to be differences
2 between those two types of facilities.

3 Also, I think that we should -- if the committee
4 agrees, I think that we should add the provision that
5 there's no change in ownership or no change in address or
6 location.

7 MEMBER PEACE: I agree with that.

8 Where it says we're going to be back and verify
9 what they did in 2007, that you would add that on and
10 where they were and what their address was and who they
11 were owned by at that time also.

12 CHAIRPERSON MULÉ: Right.

13 And then the other issue of staying the cease and
14 desist, that's something that I think warrants further
15 discussion and deliberation at least in the next week
16 before you come back to the Board.

17 So with that, I think I've covered some issues. I
18 don't know if anybody has anything else to add to that.

19 But, yes, Michael?

20 STAFF COUNSEL BLEDSOE: Madam Chair, we can
21 certainly, in this coming week before the Board meeting,
22 look into your last couple of comments in more detail.
23 But it seems to me, under the existing language of the
24 regulations, you could not change the location of the
25 facility because it already says you can only do what you

1 were doing in calendar year 2007.

2 CHAIRPERSON MULÉ: I agree.

3 STAFF COUNSEL BLEDSOE: So you can't move it.

4 CHAIRPERSON MULÉ: I agree. But I think for
5 clarification sake, it might be wise to do that.

6 STAFF COUNSEL BLEDSOE: Redundancy is good.

7 MEMBER DANZINGER: Can we just say that Kelly
8 missed that point?

9 STAFF COUNSEL BLEDSOE: Sure.

10 MEMBER PEACE: You're right. You are going to
11 look at what they did in 2007, and you can also maybe put
12 in a parenthesis, example, operations, where -- its
13 ownership, where -- address.

14 BOARD CHAIRPERSON BROWN: Well, they couldn't have
15 changed in December, posted the law in anticipation of
16 regulations. There's all kinds of things that could go
17 on. So better safe than sorry.

18 STAFF COUNSEL BLEDSOE: Yeah. But it would also
19 just raise a legal issue with the concept of prohibiting a
20 change of ownership, since, in general, our laws allow
21 people to sell their property as they wish. So we would
22 just like to look into that a little bit more thoroughly.

23 CHAIRPERSON MULÉ: Well, they can. But again, I
24 don't know that that would still allow them to get the
25 temporary permit.

1 BOARD MEMBER CHESBRO: The question is, does the
2 permit run with the property or is it with the operator?

3 STAFF COUNSEL BLEDSOE: Well, the question is
4 whether such a regulation would be an unreasonable
5 restraint on the alienation of property. So I'm just
6 raising the question right now.

7 CHAIRPERSON MULÉ: Okay. Why don't you look into
8 that. But we do want this issue researched.

9 BOARD CHAIRPERSON BROWN: I think that Senator
10 Chesbro's question is one that the Board members probably
11 need to have clarification on what the statutes says and
12 what our latitude is, whether we can have it go with the
13 owner or the property.

14 CHAIRPERSON MULÉ: I don't think it states it in
15 the law.

16 STAFF COUNSEL BLEDSOE: No, it does not.

17 CHAIRPERSON MULÉ: It doesn't.

18 DIVISION CHIEF DE BIE: If I could just clarify a
19 little bit on that particular issue, because I thought I
20 heard something. I wanted to make sure if I did or not.

21 Certainly, one of the questions that we need to
22 answer is whether or not once you are issued the temporary
23 permit and you sell the property, whether that permit goes
24 to the other operator or not -- the new one.

25 CHAIRPERSON MULÉ: Right.

1 DIVISION CHIEF DE BIE: But the thing I thought I
2 heard, maybe, is if in 2007, if I was operating a MRF that
3 might have needed a permit and I changed ownership during
4 2007, can that new owner apply for the temporary permit or
5 was that a change.

6 CHAIRPERSON MULÉ: I think so it's --

7 DIVISION CHIEF DE BIE: We're not going there. I
8 thought I heard maybe that was an issue. Okay.

9 And if I could just on the verification outline a
10 few things that are in the regs relative to verification.
11 One, the operator has to describe what they were doing in
12 2007. The LEA has to review that and find it complete and
13 correct, so they have to verify that that's true.

14 I believe on the application form, there's a
15 clause about attesting that this information under penalty
16 of perjury. And if they are being asked to describe what
17 they were doing in 2007 and they fib on the application
18 and it comes to light, that's automatically -- you kill
19 that permit right away. There's no question the way that
20 works.

21 BOARD CHAIRPERSON BROWN: And then they would have
22 a cease and desist order?

23 DIVISION CHIEF DE BIE: That's what would happen
24 after the time frame runs, yes.

25 Also, the LEA is going to be required to go and

1 inspect that facility relative to that application before
2 they submit the proposed permit. So another opportunity
3 to verify on what they were describing.

4 But I think we can look at language to include the
5 LEA in -- on the need to verify what the operator is
6 describing and give context to that. I do want to
7 indicate that I don't see a Board role in verifying that,
8 just from a resource point of view. We asked for
9 additional resources to assist in this effort. Those
10 don't come on line until after this application process,
11 so they are not available to us now. So if there was a
12 role for the Board to go and independently verify, that
13 would be very, very difficult at this time. Not
14 impossible, depending on how many are out there. If it's
15 only four or five, yeah, we could do that. But if there's
16 50, it's going to be really hard to do.

17 CHAIRPERSON MULÉ: That's my response. It depends
18 on the number of facilities.

19 Okay. Is there any other -- are there any other
20 comments, questions?

21 You're clear on direction?

22 DIVISION CHIEF DE BIE: Right. Those are the only
23 issues you want us to follow up on, because there were
24 other issues about capping the 10 percent and 1 percent.

25 PROGRAM DIRECTOR RAUH: I think we're clear on the

1 direction that you have given us today.

2 CHAIRPERSON MULÉ: Great. Any other comments?

3 No?

4 DIVISION CHIEF DE BIE: So we'll bring a version
5 back to the Board and see if we're close?

6 CHAIRPERSON MULÉ: Yes. The sooner the better.

7 MEMBER DANZINGER: Just one final comment on this.

8 Now that Mr. Astor has finally fessed up to not
9 having done so many of those things he's claimed to have
10 done through the years, will he finally admit culpability
11 for so many of those things he's denied doing through the
12 years?

13 MR. ASTOR: I did it at a public forum just now.

14 MEMBER DANZINGER: It's on the record.

15 CHAIRPERSON MULÉ: All right.

16 Any other questions from the public?

17 This meeting is adjourned.

18 (The California Integrated Waste Management
19 Board, Permitting & Compliance, meeting
20 adjourned at 3:39 p.m.)

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2

3 I, KATHRYN S. SWANK, a Certified Shorthand
4 Reporter of the State of California, do hereby certify:

5 That I am a disinterested person herein; that
6 the foregoing California Integrated Waste Management
7 Board, Permitting & Compliance Committee meeting, was
8 reported in shorthand by me, Kathryn S. Swank, a Certified
9 Shorthand Reporter of the State of California, and
10 thereafter transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 25th day of January, 2008.

16

17

18

19

20

21

22

23 KATHRYN S. SWANK, CSR
24 Certified Shorthand Reporter
25 License No. 13061